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# THE HISTORY OF THE GOVERNMENT OF DENVER WITH SPECIAL REFERENCE TO ITS RELATIONS WITH PUBLIC SERVICE CORPORATIONS

BY

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TO MY MOTHER.

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The Session Statutes of every Legislature, Territorial and State.

Proceedings of the Constitutional Convention Held in Denver, December 20, 1875. Smith-Brooks Press, Denver, 1907.

State Legislative Manuals.

Revised Ordinances of 1866. Compiled by B. B. Stiles.

The Charter and Ordinances of the City of Denver, 1878. Compiled and Revised by Alfred C. Phelps, Attorney at Law. Denver Publishing House, 1878.

The Charter and Ordinances of the City of Denver, 1881. Compiled and Revised by John L. Jerome, City Attorney. Tribune Publishing Co., Denver, 1881.

The Ordinances of the City of Denver, 1884. Times Steam Printing Co., Denver, 1884.

The Laws and Ordinances of the City of Denver, 1886. Revised, compiled, and codified by Isham White, Corporation Counsel. H. J. Collins, Denver, 1886.

Ordinances and Official Notices of the City of Denver, 1892. W. F. Robinson and Co., Denver, 1892.

Compiled Ordinances and Charter of the City of Denver, 1898. Compiled by Henry J. Hersey, of the Denver Bar. Smith-Brooks Co., Denver, 1898.

The Municipal Code of the City and County of Denver, Approved April 12, 1906. Compiled by Charles W. Varnum and J. Frank Adams, of the Denver Bar. Smith-Brooks, 1906.

Franchises and Special Privileges of the City and County of Denver, 1907. Compiled by Charles W. Varnum and

J. Frank Adams, of the Denver Bar. Smith-Brooks, 1907.

Proposed Charter of the City and County of Denver. Defeated September 22, 1903.

Charter of the City and County of Denver. Adopted March 29, 1904.

Annual Reports of the Auditor of the City of Denver.

Files in the Office of the City Auditor.

The Annual Reports of the Board of Public Works, the Health Commissioner, and Other Department Reports.

Denver Municipal Facts. Issued Weekly by the city since February 20, 1909.

Annual Reports of Denver's Chamber of Commerce and Board of Trade.

Biennial Reports of the State Auditor, State Labor Commissioner, and other State Reports.

Documents filed with the Secretary of State.

Reports of Denver's Public Service Corporations.

Census Reports, City, State, and National.

Statistics of Cities Having a Population of over Thirty Thousand.

Files of Daily Newspapers. Especially the Republican and the News.

### SECONDARY SOURCES.

SMILEY, JEROME C., The History of Denver with Outlines of the Earlier History of the Rocky Mountain Country. J. H. Williamson and Co., Denver, 1903.

History of Denver, Colorado. O. L. Baskin and Co., Chicago, 1880.

HALL, FRANK, History of the State of Colorado. Four Volumes. Blakely Printing Co., Chicago, 1889.

ENGLEHARDT, GEORGE W., City of Denver and the State of Colorado. Published by the author.

BOWLES, SAMUEL, The Switzerland of America. Samuel Bowles and Co., Springfield, Mass., 1869.

**BASSETT, FRANK**, Colorado, its Gold and Silver Mines, Farms, and Stock Ranges. E. C. Crawford, 49 Park Place, New York, 1879.

**BLACKMORE, WILLIAM**, Colorado: Its Resources, Parks and Prospects. London, 1869.

**LINDSEY, BEN. B.**, The Beast and the Jungle. N. Y., Doubleday, 1910.

**HOLLISTER, OLVANDO J.**, The Mines of Colorado. Samuel Bowles and Co., Springfield, Mass., 1867.

**HAYES, A. A.**, New Colorado and the Santa Fe Trail. Harper and Bros., 1880.

**SMITH, J. ALDEN**, State Geologist, Report on the Resources of Colorado, 1881-2. Cham and Hardy, Denver, 1883.

Summering in Colorado. Richards and Co., Denver, 1874.

## CASES CITED.

Adams v. Longmont, 42 Colorado, 102.

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# HISTORY
## OF THE
# GOVERNMENT OF DENVER.

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## INTRODUCTION.

From out the heart of the fabled American Desert, from the borders of a vast mountainous territory theretofore practically unexplored, has sprung a city that already, though but half a century old, ranks as one of the twenty-five largest cities in the United States. Forging out solutions for a physical environment that old industrial methods and customs could not conquer, Denver has become the Queen City of the Plains, and the Metropolis of the Mountains; wide circled by lands made rich in harvests though once desert, and by mountains fat with wealth and rich in power, she bids fair to become one of our greatest cities. How she has governed herself first as a village, then as a city, the structural plan of city government she has evolved, the various stages in the evolution of that plan, the forces that have been and are the motive power for her governmental machinery, are the problems with which this volume has to do.

The two phases of municipal government that can best be differentiated are the policy-forming and policy-expressing phases. The forming of municipal policies is the vital part of municipal government. The policies framed and their methods of formation depend upon the industrial and political needs of the city, the character of its citizenry, and the general spirit that guides and enfolds its activities. These policies, when formulated, are given expression through the city's governmental machinery, its structural plan of city government. The actual government of the city is the sum total of the policy-forming forces of the city; the structural plan of the city's government, usually called "the city government," is but the machinery through which actual government finds expression. To study the structural plan only, is to study the things already done, not the things that are in the doing; is to study the finished structure, not the processes of construction. The guiding, formative agency in government is not the machinery of government but the inward frame of mind of the community at large. This is not by way of saying that the study of the structural plan by which a community is governed is not important, for it is, and hence is undertaken, but by way of emphasis upon the equal value and need of a study of policy-forming agencies.

The forces motivizing changes in policy lie mainly in the social and industrial life of the community. For this reason these phases of the city's life are discussed introductory to each of the various periods into which the city's governmental history has been divided. The city's industrial life has been pre-eminently dependent upon the industrial life of the state, and hence this introductory statement notes the changing industries of the state as well as of Denver. The most vital policy-forming agents in the city's history, as in other cities, have been extra-legal, the chief of which have been the political party and the Chamber of Commerce. The place and influence of these institutions have accordingly been noticed. The leading institutions through which the city has governed itself, or voluntarily or involuntarily, has been governed, have been the state legislature, the state judiciary, and the city's government proper. The statutes of the legislature, the decisions of the courts, and the evolution of the city's plan of government have accordingly been given their wonted share of attention.

For nearly two decades and a half, the city's public utilities have been a vital factor in her government, at times, indeed, they have been, in effect, the government of the city. Any study of the city's actual government must give due consideration to the governmental influences of these corporations. It was in the actual government, not the plan of government that they interested themselves. They "used" the governmental plan in force, and interested themselves in advancing their own ends, not the city's. It is in the policy-forming field, not in the field of the structural plan of government, that their influence has been most pronounced.

Denver is in many respects a typical American city. Her citizens come from every state and every country. She has her share of the recent immigrants, but only the most progressive of them have reached her boundaries. Her citizenry is resourceful, well-educated, prosperous, and energetic. She does not suffer from a provincialism that inhibits the acceptance of everything new. She has had her share of political and corporate corruption, but not such an untoward share as have some other American cities of her size. The needs, defects, and activities of her government are characteristic of the needs, defects, and activities of the government of the average American city. She affords an excellent and typical field for a definite and concrete study of American municipal conditions.

# CHAPTER I.

## EARLY SETTLEMENT AND GOVERNMENT.

### EARLY SETTLEMENT.

The first definite information about the vast region of which Denver was to become the metropolis came from the fur traders. During the first two decades of the nineteenth century, they had exploited the plains that reached to the foot-hills. In the third decade they pressed into the foot-hills, revealed the sources of the Platte, pushed onward to South Pass, crossed the continental divide, and were relating stories of their adventures in these regions where nature has wrought on so vast a plan. The Mexican Revolution of 1821, by weakening Spain's control of the West, made possible organized trading companies with permanent posts. A systematic trade which averaged in value $130,000 per year was thus made possible. From this trade developed permanent trade routes, the chief of which were the Santa Fe and Oregon Trails, the former clearly marked by 1822, the latter by 1833. Both started from the same trading post, Westport, Missouri, but from this point took different directions, the Santa Fe Trail going southeasterly across Kansas to the Arkansas river, up this river to La Junta and thence southwesterly to Santa Fe; the Oregon Trail led northwesterly from Westport to the Platte, up the Platte and its North Branch via Fort Williams, now Laramie, Wyoming, to the South Pass, from whence one branch led to Oregon via the Snake River, another went southwesterly to California. The trails, at the two posts where they came nearest to Denver, La Junta and Fort Williams, were two hundred and fifty miles apart. It was within this triangle of territory, the objective point of neither Trail, that Denver and Colorado were destined to take their rise and growth.

It would have been better for this territory had its resources and possibilities been made known solely by traders. The descriptions heralded abroad by two of its earliest visitors, Majors Pike and Long, deterred rather than aided its development. Pike reached the mountains in the winter of 1806–'07, made an unsuccessful attempt to climb the peak that bears his name, and returned homeward, giving a cold, desolate picture of the mountain region, none of which he had actually been over. Major Long likewise learned nothing of the possibilities of the mountain country, into which he did not try to go, nor could he see any of the possibilities of the great plains country to the east of the mountains. On the contrary, he painted in lurid lines a picture of this plains country as "The Great American Desert," a land "almost entirely destitute of woodland, scarcely a tree, bush or even a shrub, making its appearance."[1] With the eyes of one used to a wooded country, he concluded that such a land could be fit for nothing but a great barrier between the Indian tribes and the habitable portion of the United States. He admitted that "buffaloes, wild goats, and other wild game" in great "multitudes," found "ample pasturage and subsistence upon it," yet this fact did not lead him to reflect upon the fertility of the plains soil or upon the possibilities of the mountain regions into which these animals must have retreated to find "ample pasturage," when such was wanting on the plains. Of the mountains he could only say that they consisted "of ranges, knobs, and peaks variously disposed" and were called the Shining Mountains by the Indians, because they were perpetually covered with snow.[2] Such a description would never entice settlers, for certainly no one would venture on a long and perilous trip through a desolate desert solely for the pleasure of looking upon "ranges, knobs, and peaks," however "variously disposed" they might be. This picture of the plains-region as a great desert burned itself into the minds of the American people, and long inhibited its settlement. Such a picture the traders would never have drawn, as they were conversant with its possibilities.

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[1] "Western Travels," XVII; 137 and 147.

[2] On July 4, 1820, Long camped near the present site of Denver. He describes the place as "on the Platte, thirty-two miles below the point where it issues from the Rocky Mountains," meridian 48° 10′; latitude 39° 57′ 40″. Ib., p. 256.

Near the present site of Denver arose not fewer than four defensive trading posts which served as centers for the dissemination of more accurate information pertaining to the district. These posts were Fort William, now Laramie, Wyoming, erected in 1832; Louis Vasquez, five miles northeast of the present site of Denver, erected in 1832; Fort St. Vrain, erected in 1838; and Fort Pueblo, erected in 1842. The services of these posts in creating a new conception of the west were aided by the reports of travelers on the transcontinental trails. In the first years of the "forties," the Oregon home-seekers wended their five months' journey to the Pacific by way of the Oregon Trail. Along this same Trail trudged the Mormons in 1847 to the Salt Lake Basin. Two years later came the rush of the gold-seekers for California. Most of these gold-seekers used either the Santa Fe or the Oregon Trail. A few of those that started on the Santa Fe Trail left it at La Junta and moved northward along the base of the foothills to the Oregon Trail. Through these various channels, by 1850, the concept of the plains as a desert and of the mountains as a desolate waste was beginning to break down, and the settlement of the great stretch of territory between the two trails awaited only some event that would attract popular attention to the possibilities of the region.

It was the discovery of gold that first focused popular attention upon the resources of this territory. Stories about finding gold nuggets therein had been heard and told by the earliest traders. By the "thirties" such stories were quite persistent. William Gilpin, later Governor of Colorado, declared at Independence, Missouri, in 1849, that during his expeditions into the mountains, he had seen unmistakable evidence of the existence of gold, silver, and copper.[1] Piqued by such stories, the California gold-seekers that moved across the territory, prospected for gold along the various branches of the Platte. They found the metal in Cherry Creek, a branch of the Platte,[2] but not in quantities sufficient to stay their rush for the fabulous gold beds of California. A party of Cherokee Indians, likewise bound for California, found gold in Cherry Creek in this same year. In 1856 and in 1857, two distinct columns of federal troops found gold in the same creek. There were other rumored finds in 1857. In the spring of 1858, a group of Cherokee Indians heard of the Cherry Creek discoveries from the returning Cherokees. Under the leadership of W. Green Russel, and accompanied by several other white men, they started for the vicinity of Cherry Creek, arriving at the present site of Denver on June 24.[3] Few traces of gold were discovered at first, and most of the party returned. Those that remained ultimately made some rich "finds" in a dry creek about seven miles below where Cherry Creek joins the Platte.[4]

The news of this discovery spread rapidly, gaining force as it spread, and soon several companies were on the road to "The Pike's Peak Gold Region." A Kansas company was the first to arrive on the scene, having started early in the spring of 1858. They had learned independently, it appears, of the possibilities of the region through two Delaware Indians who had also found gold in the vicinity. They arrived in the summer of that year, and on September 9, at a place about six miles above where Denver now stands, they laid out a town, which they called "Montana City." They built eighteen or twenty cabins on their new town site, and a few of them passed the winter there. Some of them, however, surreptitiously moved down into what is now East Denver, and, on September 24, laid out another town site, naming their town St. Charles. The purpose of these early town sites, of course, was to get possession of real estate that could be sold to incoming gold-seekers. But the lots would not sell, gold digging was found to be unprofitable, and the founders of St. Charles, including the leader in the venture, returned to Kansas.

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[1] Smiley, "History of Denver," p. 179.

[2] *Harper's Magazine*, XLI; 373.

[3] Smiley, "History of Denver," p. 185.

[4] See Smiley, "History of Denver"; Bancroft's "Works," Vol. XXV; Hall's "History of Colorado," Vol. I, and Hollister's "The Mines of Colorado."

Late in the autumn of 1858, however, other companies that had heard of the Cherry Creek discoveries began to arrive in the Cherry Creek neighborhood. Foremost among these were two Iowa companies, one arriving on October 10, the other on October 20. They encamped on the west side of Cherry Creek in what is now West Denver, and, on October 30, laid out a town site of twelve hundred acres. Their town they named Auraria. There were already two or three cabins on this site. Others were built at once and before the end of the winter Auraria could boast of one hundred and twenty-five houses. In a fortnight after the organization of St. Charles, a party arrived[1] from Leavenworth, Kansas. Perceiving the advantages of the east side of the Creek in its relation to the routes of travel, the Kansans "jumped" the town site of St. Charles,[2] organized a town company, and began to "boom" their real estate, all within twenty-four hours after their arrival. Their town they named Denver in honor of General James W. Denver, then governor of the Territory of Kansas. Another six days and Denver had a full set of city officials,[3] and its vigorous promoters were setting forth the advantages of Denver over Auraria. Newcomers joined one or the other of these towns, as Montana City had been abandoned in the spring.

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[1] On November 16. With W. H. Larimer as their leader.

[2] When its founder returned from Kansas the next spring, he did the only thing left for him to do—he quietly took shares in the Denver Company.

[3] President, E. P. Stout; Treasurer and donating agent, Gen. Wm. Larimer; Secretary, H. P. A. Smith; Recorder, P. T. Bassett.

News of the gold discoveries was, in the meantime, spreading farther and farther eastward, infecting men with the gold fever as it spread. The first printed account of the discoveries, a pamphlet entitled "The Pike's Peak Guide and Journal," was published in Pacific City, Iowa, late in the autumn of 1858. Other accounts and "guides" appeared. Newspapers everywhere gave currency to the reports. That the reports were not unfounded was evidenced by the appearance in Omaha, on January 5, 1859, of several quills filled with gold dust. The hard times following the panic of 1857 and the fabled success of the "forty-niners" caused people everywhere to lend eager ears to the news. With the advent of the spring of 1859, thousands from all parts of the United States set out for the gold regions. Capitalists and laborers; collegians and clerks; abolitionists and slaveholders; men seeking economic justice and men fleeing from civil justice; from north and south and east and west; from every state in the Union, and from every grade of social and economic life, men of every kind and class, leaving wives and daughters behind, rushed across the plains for the wealth they fancied could be picked up from the bottom of a stream.

The foremost in the scramble reached the Cherry Creek towns in March. By April ten hundred to twelve hundred had arrived.[1] In the succeeding weeks, thousands came. Each newcomer tried his luck at "panning out" the sands in the nearby creek bottoms only to find that the gold did not "pan out" in paying quantities. Discouragement grew apace. Then followed misrepresentations, incriminations, counter-incriminations and civil disorder.[2] In despair and chagrin, about mid-April, sixty to seventy men started homeward, spreading a doleful and disparaging tale of the "finds" as they went. They turned back with them fifty thousand of the one hundred and fifty thousand[1] treasure seekers on the plains bound for the gold fields.[2]

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[1] Bancroft, XXV; 373.

[2] This disorder culminated in a duel of April 16th.

In the meantime the experienced and more prudent prospectors were beginning to work out through the foothills. There their efforts found reward. In January of 1859, gold was discovered at Gold Run on Boulder Creek and later at Deadwood Diggings in the South Boulder. In the spring, rich finds were made at Gold Hill; on May 6, at Clear Creek; and on May 10, at Jackson Bar. To these regions the throngs hastened, thirty thousand going to Jackson Bar alone. The search for gold was now more successful. In one place two hundred men were taking out a total of $9,000 in gold a week and in another place one hundred men were taking out weekly, $3,500 in gold. Horace Greeley of the *New York Tribune*, Henry Villard of the *Cincinnati Commercial*, and A. D. Richardson of the *Boston Journal* visited the new camps and issued, on June 9, a signed statement verifying, by statistics and values personally known to them, the opulent wealth of the new mining districts. This statement soon had the widest possible circulation and the backward flowing tide was stemmed.[3]

This transference of the mining center from Cherry Creek to the mountain regions is the most important single event

[1] Bancroft, XXV; 373.

[2] The wild dreams of the newcomers and the attitude of the successful and experienced prospectors toward them are epitomized in the following excerpt from a public letter published in the first issue of the *Rocky Mountain News:* "Men have come here without knowing or dreaming what is required of mining. They expect to find the precious metal on the surface or to dig it as they do potatoes at home and one day's prospecting in the most improbable localities is enough for them, they hurry back to the home—the wife and children they never should have left."

[3] The statement was headed: "Gregory's Diggings near Clear Creek in the Rocky Mountains, June 9th, 1859." It was first published in an extra edition of the *Rocky Mountain News* on Saturday, June 11, 1859.

in Denver's history. Denver was thereby converted from a mining camp into a supply and food station for numerous mining camps, and the attention of the inhabitants of the village was turned from dubious profits on mining ventures to certain profits on food supply. It meant that Denver must become the emporium for manufactured articles and for requisites in clothing. More than this, it meant that Denver could become the center through which the capital should flow that was to be used in opening up the great resources of the state, and the center in which the transportation, industrial, and political problems of Colorado were to be solved. In accomplishing these things the city was to become the political as well as the industrial capital of the state, interested in stable government for all the mining districts. This position of pre-eminence was not secured without a struggle, to be sure, for there were now numerous other active towns in the region. But these were all submerged in the mining activities about them and had few inter-urban interests; Denver was situated out on the plains, twelve miles from the foothills, ready of access from north and south and with every mountain canyon in which gold had been found fortunately opening toward her.

The immediate problem before the denizens of the Cherry Creek towns was the securing of an adequate food supply for the thousands that were giving all their energies to gold hunting. The rapid influx of immigrants, a region ill-adapted to growing food products without irrigation, and the long distance from which articles had to be transported, caused prices to soar to incredible heights. Bacon was thirty-five cents and butter seventy-five cents per pound. Corn meal was twelve dollars and flour from ten to sixteen dollars per hundred-weight. Molasses was two dollars and a half, and whiskey, Taos Lightning whiskey at that, was three dollars per gallon. Nails were twenty-five dollars per hundred weight and lumber one hundred dollars per thousand feet.[1] Incoming immigrant wagons usually brought something more than was necessary to the immediate wants of their occupants, but this source of supply was sporadic and insufficient. Methodical, permanent trade lines were necessary. For the purposes of this trade, the "Leavenworth and Pikes Peak Express Company" was organized. Its first coach left Westport, Missouri, for Denver on March 9, 1859, by way of the Santa Fe.[2] Its trade became more and more profitable as the gold excitement continued and the company was soon employing from 8,000 to 10,000 freighters. Two roads were opened from Denver into the gold region, one by way of Golden, and one by way of Bradford. A third was opened from Denver into South Park. In 1860, transportation facilities over these roads was improved and systematized by the formation of three stage lines. Kehler and Montgomery started a line on March 4, Sowers and Company started another in May, and the Western Stage Company still a third in June.

This change in the industrial situation of the Cherry Creek towns revealed itself at once in business blocks, in city plans, in churches, schools, and similar evidences of permanency. After the starting of the first sawmill in the spring of 1859, frame houses began to take the place of log huts, and by the latter part of the year, Auraria was boasting of two-story buildings. A printing press arrived on April 21 of this same year and two days later appeared the initial number of *The Rocky Mountain News*. The editor, W. N. Byers, avoided Denver-Auraria jealousies by placing at the head of his paper as the place of issue, "Cherry Creek, K. T." The first issue of the paper reflects the business activities of the place in its advertisements, which included advertising notices of a law and real estate office, a justice of the peace, a city bakery, the deputy county recorder, a blacksmith shop, a "good undertaker," a saloon with "two barrels of good old Magnolia whiskey" in stock, a store for "miners' hardware and cooking utensils," and "a shop and furnishing store." Cherry Creek was bridged in the fall of 1859, and, in October, a school was opened in Auraria. The preeminence of Denver over Auraria was definitely settled in the autumn of 1859 by the arrival from Leavenworth of two trains, a total of thirty wagons, loaded with merchandise for Denver stores.

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[1] *News*, July 9, 1859. Other prices were: salt and beans, 15 cents, potatoes, rice, crackers, and sugar, 25 cents, cheese and lard 50 cents per pound. Coffee was 80 cents per pound. Glass was $16.00 per box and eggs were $1.75 per dozen.

[2] It was reorganized in the winter of 1859–'60, and chartered by the Kansas Legislature as "The Central Overland, California and Pikes Peak Express Company."

The activity in the mining districts continued during 1860. Thousands came and thousands went. The census of 1860 gives Colorado a population of 34,277 and there is no doubt that hundreds were not enumerated. The amount of gold coined from the territory "in the year 1859, was $622,000; and for the year 1860, $2,091,000."[1] The census of 1860 places the estimated wealth of Colorado at $11,720,461 of which only $13,250 was in real estate, the balance, $11,707,211, being personal property. Denver reflected this industrial activity. Her population in 1860 numbered 4,749. Her business interests multiplied, and her wares and advantages found ample opportunity for advertisement in one weekly and three daily papers,[2] twice as many papers as in all the rest of the district combined.[3]

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[1] Session Laws of 1861, p. 513.

[2] These were: *The Daily Herald*, Thomas Gibson, editor; *The Daily Denver Mountaineer*, James T. Coleman, editor; and the *Daily News*, W. N. Byers, editor. The weekly was the *Cherry Creek Pioneer*, John L. Merrick, editor.

[3] These were: *The Weekly Western Mountainer*, at Golden, and *The Weekly Rocky Mountain Gold Reporter*, at Mountain City. (*The News*, April 23, 1909.)

## THE EVOLUTION OF A LEGAL AND STABLE CITY GOVERNMENT.

The cosmopolitan character of the early immigrants to Denver and Colorado has been noted. The census of 1860 revealed that not only was every one of the thirty-four states and territories represented but twenty-three foreign countries as well, the total number of foregin-born being 2,666. Moreover, almost all of these early settlers and prospectors were men. With such a cosmopolitan population, in an unstable economic regime, far away from old associates and from all legally constituted government, there was, inevitably, disorder and civil discord, and an ever-present menace to life and property. There was need of some form of government that would quickly and surely bring offenders to justice.

To frame a legal local government for the Cherry Creek towns was impossible, as there was at hand no state or territorial government from which to draw the essential powers and a governmental form. Nominally, Denver was in Arapahoe County, Kansas. Kansas, in 1855,[1] had created out of the western part of her territory, which then extended to the summit of the Rocky Mountains, the County of Arapahoe and attached it to Marshal County for governmental purposes.[2] But the six hundred miles of intervening prairie made it at once impossible and inadvisable for the Cherry Creek towns to await the action of the Kansas Legislature—impossible because of the pressing need for a local government to stay the rising disorders, and inadvisable because Kansas was in the throes of civil war; a government so engrossed, and the prejudices of a people so involved were alike ill suited to the capitalistic and social needs of a thriving new community. Moreover, the mining districts were a distinct economic unit, and, as such, embraced parts of five organized Territories, the western parts of Kansas, Nebraska, and Dakota, the northern part of New Mexico, and the eastern part of Utah. Under such conditions it was inevitable that there should grow up a demand for a new state or territory that would embrace within its boundaries all the mining district.

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[1] Kansas Laws of 1855, Ch. 37.

[2] Kansas Historical Collections, X; 61.

The founders of Auraria and Denver had established a nominal form of government upon the creation of their town companies. Denver, in addition to its city officials, elected a probate judge and three county commissioners. But the question arose at once and would not down as to whether the jurisdiction of Kansas should be recognized or efforts made to secure the creation of a new Territory. Early in November of 1858 a light snow put a stop, for the time being, to the search for gold and drove the prospectors and miners, about two hundred of whom were in the vicinity, into the Cherry Creek towns. Their attention was at once turned to the solution of their governmental problems.[1] On November 6, about thirty-five of them met at a called meeting in Auraria, and discussed the two possibilities before them. They decided to make the most of both methods of procedure and, as a temporary expedient, elected a delegate to the Kansas Legislature, A. J. Smith, and also a delegate to Congress, Hiram J. Graham, the latter to proceed to Washington and urge the erection of a new Territory.

Delegate Smith, who had arrived in the Cherry Creek district on October 20, but little over two weeks before his election, set out at once for the Kansas capital. On February 7, 1859, the Kansas Legislature created five counties out of her western territory,[2] the county in which Denver was located being named Montana, and designated county commissioners for each. But as these officials, by the law, were to do their work without cost to the Territory of Kansas,[1] they never appeared to take the reins of government, and the Cherry Creek towns were as destitute of legal government as before. What share Delegate Smith had in this legislation is not known. On March 28, an election was held in the Cherry Creek towns for a full set of county officers, whether for Arapahoe or Montana county does not appear. A total of 774 votes were cast, 231 of which were in Auraria and 144 in Denver. Because of the agitation for a distinct territorial government, however, these officers never took their seats, as to do so would give public recognition of the jurisdiction of Kansas.

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[1] Smiley, "History of Denver," Chaps. XXXII and LII. Hall, "History of Colorado," Vol. I; 208 ff. Paxson, "The Territory of Colorado," *American Historical Review*, Vol. XII, No. 1.

[2] Kansas Laws 1859, p. 357. The counties were: Montana, El Paso, Oro, Broderick and Fremont.

Delegate Graham, who had been a citizen of the vicinity nearly four weeks when elected, set out for Washington on November 8 and arrived in January, 1859. Through his influence, a bill organizing a territory to be known as Jefferson Territory was introduced, but met with no favor. When this news reached the two Cherry Creek towns, the citizens thereof, finding themselves without a Territorial form of government, at once took steps toward the creation of a state government of their own. To be sure they had no Enabling Act and the late Congressional action was certainly far from encouraging, but, nothing daunted, a meeting was called to be held in Auraria on April 11. This meeting[2] called for the election of delegates to a convention to meet in four days. The convention met on the day set, April 15, with delegates in attendance from the "precincts" of Fountain City, Eldorado, El Paso, and Arapahoe, as well as from Denver and Auraria.[1] The convention created "a new and independent state" with eastern and southern boundaries identical with the present eastern and southern boundaries of Colorado, but extending two degrees farther north and one degree farther west, thus including liberal portions of the present states of Nebraska, Wyoming, and Utah. It also issued a call for a second convention to meet the first Monday in June, to frame a constitution for the new commonwealth. "The kindest feeling prevailed," reported the *News*,[2] "and the proceedings were conducted with the utmost unanimity; and we fully believe the ball now started will continue to roll on until the most brilliant state in the Union will be fully inaugurated, and its success insured." Events were to prove, however, that this "ball" was started rolling solely by Denver politicians. Thus early was born the deep and abiding interest of Denver politicians in the politics of the state, an interest made perennial by the close dependence of Denver's industrial interests upon the industries of the state.

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[1] They were authorized to locate the county seats of their respective counties and sell 200 lots therein for their pay. This remuneration was not to exceed $5.00 a day for 9 months, any balance from such sale to be turned into the County Treasury. A supplementary act specifically provided that Kansas Territory was to pay none of the cost therefor.

[2] It was at this meeting that a motion was put and lost that the recently elected county officials "enter at once upon the discharge of their respective duties." To pass such a motion would recognize the priority of Kansas' rights.

Delegates to the constitutional convention were elected on the second Monday of May and assembled in Denver on June 6. Its instructions were to frame a state constitution and "to call an election for state officers." But a convention composed of delegates from all over the state, did not act with the "utmost unanimity" as did its predecessor. It was unable, indeed, to come to any definite conclusions, and adjourned to meet on August 1. On that date it reassembled, 167 delegates, representing 37 "precincts," being present.[3] It split again upon the advisability of adopting a state or a territorial form of government, the result being that it submitted to the electorate a state constitution, and a memorial asking Congress to create a new Territory. The proposition was submitted on September 5, and the territorial proposition won by a vote of 2,007 to 649, winning even in Denver and Auraria, the votes therein being 573 and 373, respectively, for the Territory, and 70 and 114 for the state.[1] The telling argument in the campaign was that Congress would bear the expenses of a territorial organization, while the expenses of a state government would have to be borne by taxation.

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[1] *News*, April 23, 1859.

[2] Ibid.

[3] Hall, I; 208.

At a special election on the first Monday in October, Beverly D. Williams was elected to represent the new Territory of Jefferson in Congress, and delegates were elected to a convention to draw up a constitution by which the Territory could be governed, pending congressional action. The convention framed a constitution which was submitted to the electorate on October 24, and adopted. At the same time, territorial officers were elected. On November 7, the Provisional Legislature met, the territorial officers were ushered into office,[2] and the *News* took from its headlines "Kansas Territory" and inserted therefor "Jefferson Territory," its editor saying as to his new headline, "We hope and expect to see it stand until we can boast of a million people, and look upon a city of a hundred thousand souls."

Let us now turn to the consideration of the local governmental machinery of Denver.

It has often been said that frontier governments owe their rapid evolution and quick adaptation to the fact that the inhabitants are not weighted down by old traditions and customs. A more accurate statement is that the inhabitants of new regions bring with them all the traditions and customs of the old, the advantage of the new over the old being rather in the multiplicity of suggestions that can be offered from past experience from a group of people coming from so many different economic classes and forms of government. So it was in Denver. The cosmopolitan character of the early immigrants has been noted. Thrown together in a region where there was no organized government, their first tendency was to act along old traditional lines. There was, therefore, among the many, no wanton destruction of property or menace to life. On the contrary, life was all too readily assumed along old grooves. But for a time of turmoil or disorder such a community had in store a wealth of suggestions.

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[1] Smiley, p. 311.

[2] Hall, I; 210.

The government of Denver was, at first, organized on traditional models with the usual city officers. During this period and long afterwards, there was also a board of Directors for the town company, but the sole mission of this board was to supervise the sale of real estate. The testing time came with the great influx of immigrants in 1859. Among so many there could not but be a large number that had no traditions of law and order, or, having them, were only too willing to throw them over when legal restraint seemed not at hand. Life and property were menaced. The traditional city machinery was found to be ill-adapted to cope with the situation. A vigilance committee, composed of 27 members, sworn to secrecy, was quickly organized, and, backed by a virile public opinion, it summarily enforced order. In the want of conventional courts, people's courts were organized and quickly dispensed justice. As Denver was the principal town, it had the most of these courts. Their procedure, though summary, was founded on principles of common law and locally accepted custom. The prisoner was allowed three competent judges, proper counsel, and a jury of twelve. They took cognizance of felonious crimes only, and their sentence was usually either banishment or death. Thus in April, 1859, a murderer was condemned to death and hanged. After vigilant action by such committees or courts, the duels, murders and robberies that were all too frequent in the summer of 1859, were brought to an end. For abjudicating claims, the Araphoe County Claim Club was organized. Civil suits took their regular course before judges elected under the provisional laws.

By November the Provisional territorial government was organized, the legislature of which could grant to the Cherry Creek towns needed powers and a "legal" frame of government. In the meantime, a third town, Highland, now North Denver, had been organized, chiefly on paper. The community of economic, social, and political interests of these three towns gave pregnancy to the suggestion that they be organized under one government. Accordingly, the Provisional Legislature, on December 3, passed an "Act to Charter and Consolidate the Towns of Denver, Auraria, and Highland." The act declared[1] the three towns to be "hereby erected into a city, by the name and style of the City of Denver, Auraria, and Highland," a rather awkward name, it must be admitted, but yet one that had the merit of avoiding local jealousies.

The charter vested the city thus created with corporate powers, power to own real and personal property within or without the city, power to establish or erect hospitals, poorhouses, "work-houses of correction," cemeteries, water works, and power to further any other "purpose which may tend to the general good of the city." Instead of enumerating in detail the powers it could exercise, a custom then universally in vogue in the United States, the legislature granted to the city "power to enact and enforce ordinances, rules and regulations 'not inconsistent with the Constitution of the United States and the Organic Act of this Territory.'"[2] The charter provided for a mayor, twelve councilmen, a city clerk, a recorder, marshal, assessor, treasurer, attorney, city engineer, street commissioner and such other offices as the council might create by ordinance. The first city election was to be on the third Monday after the approval of the act and annually thereafter on the first Monday in October. "All free white male citizens of the United States, or persons who have lawfully declared their intentions to become such," who were twenty-one years of age or over, and who had

[1] Smiley, p. 632.

[2] Smiley, p. 632.

"resided within the city limits sixty days next preceding any election," were declared to be qualified voters of the city.

In accordance with the provisions of the charter, the first city election was held on December 19. At this election the charter was submitted for ratification and a full list of candidates was voted upon to become the officers of the city, should the charter be ratified. It was ratified by a vote of 377 to 302. The city officials began their work on January 21, 1860. The new mayor was John C. Moore, who served most acceptably.

The government thus created was the forerunner of the municipal government of Denver. It was a "legal" government only in the sense that the vigilance committees and the people's courts were legal—machinery by which a community was for the time being enforcing community rights and immunities. Both the territorial and the municipal government could be effective only so long as they had the virile backing of a strong public opinion. As the Jefferson Legislature was extra-legal, the Denver charter was extra-legal. This was the chief objection urged against it by the many that opposed it at the polls, when it was up for ratification, an objection that was made all the more cogent by the fact that not two weeks before, on December 8,[1] an election had been held for a representative in the Kansas Legislature.

No sooner had the new officials assumed office than events arose that made all such traditional municipal machinery impotent as a governing agency. In the very month that the council held its first meeting, the unruly element in the city became wantonly destructive. One party of men took armed possession of the Denver town site, under pretense of securing title through the agricultural pre-emption law. Only after a show of force by the citizens of Denver, did they desist in their attempt.[1] In the same month there occurred an armed broil, currently known as the "turkey war," between two bands of reckless men.[2] A vigilance committee, by prompt action, averted bloodshed. About the same time a gang of thieves was operating all too successfully in Auraria. A public meeting was held and the gang ordered to leave the place within five hours. A military company that night patroled the streets. The next day the thieves disappeared, though not before they had twice attempted to shoot the principal witness against them.[3] Such disorder continued in both towns throughout the succeeding months. "The entire summer," says Hall, "was marked by trails of blood." To restore order, the vigilance committees and people's courts were again called into being. With the strong backing of the law-abiding element, and by summary action, they restored order. From March to December of 1860 four murderers were convicted and hanged.[4] As the influence of these committees and courts increased, the influence of the Jefferson city officials decreased, and by the end of the summer, the Jefferson charter government had sunk into utter impotency.

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[1] Hall, I; 217.

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[1] A public meeting was called and a committee appointed to wanr the "jumpers" to cease their interference with vested rights. The committee was met by a strong battery of loaded rifles in the hands of resolute men. That night the intruders retreated and their improvements were destroyed. The intruders suspected the secretary of the Town Company of destroying their improvements and "went gunning for him"; only by the timely interference of friends was he saved. Another meeting of Denver citizens then gave a more determined air to their intentions, and the intruders retreated. Hall, I; 221.

[2] Some hunters came in from the southern part of the state with a plenteous supply of wild turkeys for sale. A gang, by force, took their turkeys from them. Armed defenders came to the support of both sides, and it was only by the most decisive public action that a bloody conflict was avoided. Bancroft, XXV; 408.

[3] Hall, I; 222.

[4] In March, 1860, a murderer was convicted and hanged in front of his own house. The Court consisted of a chief justice, two associate justices, a sheriff, a secretary, and jury of twelve. On June 15 and 23 and in December, three other murderers met a similar fate by a similar court. The crimes were committed near, not in, Denver.

This need for common action between Denver and Auraria, however, had one good result in that it crystallized sentiment in favor of one unified city. The demand for this, resulting in the Jefferson charter, has already been noted. But the statutory name of "The City of Denver, Auraria, and Highland" was alike cumbersome and indicative of divided interests. On December 26, 1589, a joint meeting of the citizens of Denver and Auraria—Highlands existed on paper only—was held and an agreement was reached to call the consolidated municipality by the name of Denver.[1] Here the matter rested until the last week of March, 1860, when a mass-meeting of the citizens of Auraria adopted a resolution declaring that "Whereas, the towns at and near the mouth of Cherry Creek are, and ought to be one; therefore be it Resolved, That, from this time, Auraria proper, shall be known as Denver City, West Division." The resolution specifically provided, however, that the Aurarian town company should remain intact, and that title to the town site should continue to rest, as before, with the town company. Ever true to the spirit of majority rule, the proposition was submitted, on April 3, to a vote of the electorate. It was carried by a vote of 146 to 39.[2] Three days later, a public meeting of the citizens of both towns was held on the newly completed bridge across Cherry Creek to felicitate each other over the marriage. The meeting adjourned with three rousing cheers for Denver City, led by William Larimer, the founder of Denver, and the prophetic orator of the evening.

With the restoration of order came the demand once more for the traditional form of government. The Jefferson charter form was too dead for resuscitation and the Jefferson Territorial government was itself losing vitality. The first session of the Territorial Legislature had, in addition to Denver's charter, passed many laws looking toward civil order and good government. It had, in addition to providing for county governments in the nine counties it created, adopted a full civil and criminal code. After public opinion had ceased to give validity to the acts of the legislature as such, parts of this code were useful in guiding judicial procedure in the people's courts, only such parts being adopted, however, as each court deemed expedient. A second election for territorial officers and legislators was held on October 22, 1860. The vote cast was insignificant, revealing an entire want of public interest and respect for the provisional government. The legislature met in the month after their election, but no attention was paid to their deliberations and their proceedings were never even published.

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[1] Smiley, p. 323.

[2] Ibid., p. 324.

Foreseeing the death of the territorial government, the citizens of Denver, when they came to organize a new city government, paid no heed either to the charter granted them by the legislature or to the possibilities of getting another legislative charter. The sovereignty of the community was vested in the will of the majority thereof and any form of local government was valid only to the extent that its will was enforced by public sentiment. To take steps toward organizing a city government that would be constructive as well as protective, a meeting of Denver citizens was held early in September of 1860. This meeting appointed a committee to draw up a "constitution" for a new city government to be known as "The People's Government of the City of Denver." This committee reported to a second citizens' meeting, held on September 21, and the constitution they recommended was, with slight amendments, adopted, and a resolution was passed submitting the constitution to the city electorate for approval at an election to be held on the first Monday of October. Nominations were likewise made for city officials to be elected at the same meeting, to take office in case the constitution was adopted. At the election 1,162 votes were polled, 1,122 of which were for the constitution.[1]

[1] Smiley, p. 634.

The officers nominated by the citizens were elected by about the same majority. The constitution provided for one appellate judge, two judges of the court of common pleas, a clerk, a treasurer, a marshal, and a "Legislative Council of six," all to be elected at large, semi-annually. The six-months term of office was to make certain the support of the majority in the city. A mayor was not elected, Mayor Moore being left undisturbed in his office. He soon resigned, however, to go south to become an officer in the Confederate army.

On October 8 the new city officials took office. The first ordinance passed was one prohibiting gambling, and the sale of liquor or merchandise on the streets of the city or in tents.[1] Before the next semi-annual election, which was held on April 6, 1861, the city was divided into three wards or "Divisions." Denver City became the "East Division"; Auraria, "West Division"; and Highlands, "North Division." The East and West Divisions were allowed four members each in the Council, and the North Division was allowed one. The number of elective officials was also increased. The officials elected on the sixth of April served until the establishment of a city government under legal territorial statutes in November of 1861. It was the last of the city governments that based its validity on community support instead of on statute law. Let us now turn again to the efforts to secure from Congress a territorial organization.

Denver was especially concerned in the establishment of a legal government. The attitude of the citizens of Denver on the question was tersely put in a letter written by one of her citizens, to his home in Vermont:[2] "There is no hopes [sic] of perfect quiet in our governmental matters until we are securely under the wing of our National Eagle." Denver was more deeply concerned in stable government than were, as yet, the mountain towns. Each of the latter was a unit in itself, busied in its own possibilities, disorder being sufficiently restrained by vigilance committees and people's courts. But Denver was interested industrially in the whole district. She wanted and needed capital and new enterprises, and for such a legal government was an essential. Help from Kansas there was none, for the two quite sufficient reasons that Denver, with a large southern element, did not want it, and that Kansas did not care to grant it. Kansas had, indeed, by her own motion, as early as 1859,[1] fixed her western boundaries as they now are, not caring to confer upon "a tract of land that is not valuable to us, . . . the benefits of government at our own expense" and not caring to include "a people not homogeneous, whose wants will be very different and very little in common with ours."[2] Denver's only outlook, therefore, was to hasten Congressional action. Toward this end,[3] the board of directors of the Denver Town Company, on December 27, 1859, elected "the Hon. S. W. Beall," an ex-governor of Wisconsin, to represent Denver's "special interests" in Washington. In addition to securing a territorial organization, he was to busy himself before "Congress and before the Heads of Departments in the location of the post office, also the Indian Agency, Military posts and an Essay office and any other matters that he may be requested to attend to by the Citizens of Denver." As compensation, he was granted "one original share in Denver City."[4]

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[1] Ibid.

[2] Paxson, "The Territory of Colorado," *op. cit.*, p. 62.

Governor Beall at once set out for Washington, taking with him a petition setting forth the needs of the district. The petition, prepared by Beall himself, was signed by 831 residents of the territory,[5] the great majority of whom, however, were residents of Denver. Indeed, it does not appear that there was any thought of circulating the petition outside of Denver until its publication in the *Rocky Mountain News* brought requests from outlying districts for the privilege of signing it. The petition[1] prayed for the early extinguishment of the Indian title, a consequent survey and a sale of the public lands, the establishment of an assay office, and "the erection of a new Territory from contiguous portions of New Mexico, Utah, Kansas, and Nebraska." The arguments advanced for the creation of the new territory were, (1) the "insecure condition" of the district, foreboding a condition "far less endurable," (2) that "the acts of the legislature of Kansas, intended to establish jurisdiction[2] . . . [were] of no avail" and (3) that the wealth of the district a wealth that had "never been equalled, or even approached, at any period, or in any extended locality," justified at least a Territorial organization. The petition was sent to the President and on February 20, 1860,[3] President Buchanan transmitted it to Congress with a favorable recommendation.

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[1] By the Wyandotte constitution, ratified October 4, 1859, under which the state was admitted to the Union.

[2] Kansas Historical Collections, X; 63.

[3] Smiley, p. 325: Hall, I; 245.

[4] That is, in the original town site.

[5] There were four identical petitions, with 47, 79, 143, and 562 signatures respectively.

Governor Beall and Delegate Williams joined forces to get favorable Congressional action. In due time, two bills were introduced creating a new Territory, but neither passed. Favorable Congressional action was secured, however, as to the Indian Treaty, and as to overland mail. Efforts for a territorial organization were renewed during the next Congressional session, and this time met with success, the opportune moment coming when the southern members of the Senate withdrew. On February 2, 1861, a bill for organizing the Territory under the name of Idaho was taken up in the Senate. Two days later the name of the Territory was changed to Colorado. The House passed the bill on February 18, the President signed it ten days later, and Colorado, with its present boundaries, embracing 103,478 square miles, equal to the combined area of Pennsylvania, New York, Massachusetts, and New Jersey, came into legal existence. On March 22, President Lincoln named the Territorial officials. During the summer, a Territorial Legislature was elected, and it began its first session on September 9. One of its most important acts was to grant Denver a charter. Denver had at last succeeded in getting what it long had worked for, a legal local government for the city, and a legal government for the Territory.[1]

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[1] Senate Executive Documents No. 15, Vol. X, 36 Cong., 1st sess., serial No. 1,027.

[2] It was held that the Kansas Legislature could have no legal jurisdiction over the district because the inclusion of the district in the Territory of Kansas by the Kansas-Nebraska bill was in violation of a former treaty with the Indians.

[3] Messages and Papers of the Presidents, V; 580.

## THE FIRST LEGAL STATUTORY CHARTER.

The frame of government and the grant of powers delineated by the first charter[2] differed in no marked way from the powers and structural plan usually given by American legislatures to villages of that size. It defined the boundaries of the city, including therein the three Cherry Creek towns, and fixed the procedure for annexing additions thereto. It granted to the city corporate powers, and the same liberal powers over real and personal property as were granted by the Jefferson charter. It defined the powers of the city, fixed the organization and procedure of the council, and provided for the executive officials. As it is in these three fields that legislation pertaining to Denver's government has been most prolific, a detailed description of the charter's provisions becomes necessary.

The city council was composed of six elective members, two from each ward of the city. The charter required the council to lay out the city into three wards before the third Monday in November, the date for the first city election under the charter. After the first election the city council could change the boundaries of the wards, or erect additional wards, as occasion might require. The aldermen were to be elected for two year terms, one-half retiring annually, thus securing a continuity and permanency in city policy, there being no longer any necessity for short terms in order to ensure valid and efficient action. Any qualified elector, one year or more a resident of the city, and a resident of the ward he was elected to represent, was, if a citizen of the United States, eligible to a seat in the council. Removal of residence from his ward vacated the alderman's seat. No alderman could be appointed to any city office which had been created or the emoluments of which had been increased during his term of office. The council was the "judge of the qualifications, election, and returns" of its own members, and passed upon all contested city elections, tie elections being determined by the mayor by lot. It was empowered "to determine the rules of its proceedings, punish its members for disorderly conduct, and, with the concurrence of two-thirds of the members elect, expel a member," and was enjoined to "keep a journal of its proceedings, and from time to time publish the same." A majority constituted a quorum and any member could demand that the yeas and nays be entered on the journal. Twelve stated meetings were required each year and special meetings could be called by the mayor or any two aldermen. Vacancies, whether in the office of the mayor or aldermen, were to be filled by a special election.

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[1] It is interesting to note that Gov. Beall's petition stated two propositions for a general government with "one or either of which" the petitioners "would gladly rest content": (1) If, by the census of 1860, there were 30,000 people in the state in July, there should be a Territorial government, but (2) if the census revealed 150,000 on September 1, there should be a state government.

[2] Laws, 1861, p. 483. The charter was approved November 7.

The mayor was to be elected annually. His qualifications, save as to ward residence, were the same as for the aldermen. Should he absent himself "from the city for a space of three months," his office was thereby vacated.[1] The legislative powers of the mayor were very few indeed. He presided over the meetings of the council, but could vote only in case of tie. He was vested with advisory legislative influence by the provision that he should recommend to the council such measures, "as in his opinion may tend to the improvement of the finances, the police, the health, security, comfort and ornament of the city." The executive powers enumerated to him were nominally somewhat greater but they were all of a general character and in no wise made him the administrative head of the city. He was empowered to "inspect the conduct of all the subordinate officers of said city," requiring them, if need be, to exhibit their books and papers, and to "cause negligence or positive violation of duty to be prosecuted and punished." But the mayor himself had no power over the city's officials, and hence all that he could do when he found "negligence or positive violation of duty" was to start procedure in the courts, a measure that he would not usually feel it worth his while to take. He was enjoined to be "vigilant and active in enforcing the laws and ordinances of the city," but with the marshal and police magistrate elected by the people and the chief of police appointed by the council, he had at his disposal no power whatsoever to do so. The tumultuous disorders of earlier days led to vesting in the mayor one real power, the power "to call on every white male inhabitant of said city" over eighteen years of age, "to aid in enforcing the laws and ordinances, and in cases of riots, to call out the militia to aid him in suppressing the same or other disorderly conduct." Legal control over his actions was, as was then the custom everywhere, very slight. For malfeasance in office he could be indicted in the district court, and fined not over $500, and could, at the discretion of the court, be removed from office. He was to receive no compenastion for his services within the city until the population of the city reached 5,000 when the council might vote him a salary. For his services without the city, the council could vote him compensation. The position of mayor was, therefore, all in all, of no relative importance, though it had in it possibilities for development.

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[1] Pending a special election to fill a vacancy in the mayor's office, the council elected one of its own members to act as mayor pro tem.

The other elective officers specifically provided for by the charter were a justice of the peace to act as "police magistrate," elected for a four-year term, and a city marshal, elected for a one-year term. The marshal was empowered "to do all acts that a constable may lawfully do," and was to have the fees of constables and give the same bonds. The police magistrate was given "jurisdiction in all cases of violation of the city ordinances" and in all cases where a justice of the peace could act under the general law. Appeal lay from the police court to the district court. The charter provided that all other city officers, save those "elected or otherwise provided for in the act," were to be appointed by the city council. The council did not make the most of this optional appointive power but, on the contrary, added to the list of officials to be elected at the first election, a street commissioner, a "city clerk and attorney," a city surveyor, and a "city treasurer and collector." About the only important city official left to be appointed by the council was, therefore, the chief of police. With so many independent elective officials there could be no efficient, centralized administration.

The powers of the city, all of which were to be exerciesd through or by the council, were, in accordance with the custom prevalent until recently in the United States, enumerated in great detail. It is necessary to make a survey here of the more important of these powers, as in this field state legislation as to the municipal affairs of Denver has been rife.

The council was vested with power to establish, maintain, improve, and light the streets, alleys, and bridges of the city, and to establish and maintain drains and sewers. To keep the streets and alleys in repair, the council was authorized to call upon "every able-bodied male inhabitant of the city" over twenty-one[1] years of age to work three days thereon or, in lieu thereof, to pay $2 a day for each of the three days he did not work. The city's power over health was plenary, including power to pass all needful regulations[2] as to hospitals, quarantine and the general health of the inhabitants, which regulations could be enforced for a distance of five miles beyond the limits of the city. Power was given "to provide the city with water; to erect hydrants and pumps; to build cisterns and dig wells in the streets, for the supply of engines and buckets"; "to establish markets," "erect market houses," and regulate market places; to "provide all needful buildings for the use of the city," and to make regulations therefor and for "all public grounds belonging to the city"; power was given to regulate the police and the night watch; to establish fire companies, "regulate or prohibit the erection of wooden buildings," "regulate the building and fixing of chimneys, and the storage of all combustible materials"; power to declare and abate nuisances, to regulate "parapet walls, partition fences, and the running of animals at large"; to establish weights and measures and regulate the sale and provide for the inspection of food stuffs.[3] Such were the more important of the powers granted to the city. In carrying out these powers, the council could pass the needful ordinances and affix proper penalties. The jail sentence for the breach of ordinances was limited to six months.

The council was authorized to levy taxes upon all the taxable property within the limits of the city. The maximum levy was fixed at "one per cent. per annum upon the assessed value." Debts could be created only by the consent of the electorate, the maximum interest thereon was fixed at twenty per cent.,[1] and the maximum debt was fixed at that amount on which the annual interest should exceed "one-half the revenue annually derived" from the city tax upon real estate. The license power was quite extensive, a reflection of the large southern element in the city.[2] Nothing was said as to the power of the city to regulate the rates of the public service corporations of the city, though the common law principle of regulation was recognized in the grant of the power to fix rates on "wagonage," "porterage," "drayage" and for theatres, shows, and amusements. The council could regulate and license, or prohibit and suppress "billiard-tables and bowling alleys," "tippling houses, dram-shops, gambling houses, bawdy houses, and other disorderly houses," a prolific field for later legislation. Over all the sums raised by the city, the council had sole power of appropriation. The procedure for the issuance of warrants was fixed by a general law.[3]

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[1] Aldermen and firemen were exempted.

[2] The mayor was made the executive officer of the council in enforcing such regulations.

[3] Beef, pork, flour, meal and whiskey, when in barrels, bread, bricks, and building materials were specifically mentioned.

Even within the fields of these enumerated powers, the action of the council was limited by the provisions of the national constitution, of the organic act,[4] and of the general laws of the Territory. Popular control was exerted through required publicity of ordinances and of financial reports. Ordinances were to be published, within a month after they were passed, in some newspaper in the city, or posted in three public places. "Full and complete" annual financial reports were also required of the council. But as in both cases, the publicity followed the act, it was not an effective check upon the actions of the council. Indeed, in a village government, there was little need of extensive requirements for publicity. But as the city grew, these provisions had to be made more specific and mandatory.

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[1] A striking comment upon the risks of investment in a frontier community.

[2] The following were made subject to license and regulation: auctioneers, merchants, peddlers, retailers, grocers, taverns, ordinaries, hawkers, brokers, pawnbrokers, money-changers, hackney-carriages, wagons, and drays.

[3] Laws, 1861, p. 46.

[4] Laws, 1861, p. 26, sec. 6. Especially full as to limitations on taxation.

The acts of the People's Government were legalized. The charter specifically provided that no provision in it "should invalidate any act done by the Legislative Council under the People's Government of Denver nor divest them or the citizens of rights which may have accrued to them prior to the passage of this act." This provision also protected the rights of the town companies. By general law[1] the acts and decrees of the people's courts of Denver and of the entire Territory, as well, were legalized. "All adjudications, decisions or judgments, heretofore had, given or pronounced," read the law, "by any of the Judges of the so-called People's or Miners Courts within this Territory," when the party proceeded against had been given opportunity to be heard, should have full "force, validity, and effect." Denver thus had not only a law legalizing its future municipal action but a law legalizing its past municipal activities as well.

This charter was by no means the only law passed by the first territorial legislature that had a definite bearing upon the local government of Denver. It created, among other counties,[2] the County of Arapahoe, embracing 4,860 square miles. Denver was made its temporary county seat, subject to the action of the county electorate. The electorate, at the next general election, permanently located the county seat at Denver. A full list of county and township officers was provided for, the more important of which, among the county officers, were the county commissioners, the sheriff and the assessor, and, among the township officers, two justices of the peace and two constables.[3] Another general law created a common school system.[1] A clause in the charter gave to Denver power to "establish, support and regulate common schools," a conflict in jurisdiction of deep import to later legislation. A state university was provided for.[2] The courts were established, the English common law was accepted as the state's basic law, and laws as to elections, suffrage, and fraudulent voting were enacted. The date for the general election was fixed for the first Tuesday in September[3] whereas, by the charter, Denver's elections were to occur on the first Monday in April. This divorce of the two elections meant greater autonomy to Denver in local affairs.[4]

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[1] Session Laws of 1861, p. 381.

[2] Seventeen counties were created, and their county seats temporarily designated, subject to the action of the county electorate. Laws, 1861, p. 52.

[3] Laws, 1861, p. 105.

The first city election under the new charter was held on November 18, 1861, the officers then elected serving until the time set in April for the regular municipal elections. Thereafter the elections occurred annually in April. On October 23, 1862, the school board of District Number One in Arapahoe county was organized. This organization of the public school system, however, had no deterrent influence upon the organization of private schools, two being opened in the year in which the public school system was launched.

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[1] Ibid., p. 164.

[2] Ibid., p. 144. Located at Boulder.

[3] Ibid., p. 72.

[4] The Supreme Court of the Territory was ready to begin work, July 10, 1862.

# CHAPTER II.

## 1861–1868.

## UNDER A COUNCIL FORM OF CITY GOVERNMENT.

### THE SOCIAL AND INDUSTRIAL BACKGROUND.

The charter just described prescribed the structural plan under which Denver began her governmental career. The first step in the evolution of this plan was to make of it a purely council form of city government. Providing that there be freedom of change, political institutions tend to conform to the paramount social, industrial, or political activities of the times. To get at the reasons back of governmental changes, requires, therefore, a study of the forces that shape such legislation. These forces were, for the first decade and a half of Denver's history, primarily industrial and hence, as Denver's industrial life was but the reflection of the industrial life of the Territory, we must first turn to the characteristic industrial activities of the Territory and note their effects on Denver.

The most important development in the industrial life of the Territory during this period was the discovery of other sources of mineral wealth in the state, and, most important of all, a change in the method of securing the precious metals. The thousands that came to Colorado in its earliest years came to engage in placer mining, a mining method that required little capital or skill. The total output of gold by this method, during the first three or four years of its use, was valued at $30,000,000,[1] but this large output was due primarily to the fact that there were many hands at work, for placer mining was not profitable save in a few quickly exhausted places. By 1868 there were only 300 placer miners in the state.[1] Very soon after the first experienced prospectors went to work in 1859, it was found that Colorado's most valuable minerals were in quartz ores and other refractory combinations that could never be gotten at by placer mining but required stamping mills and smelters. The first successful stamping mill was put in use in Gold Hill in July, 1860. The number of mills and smelters rapidly increased throughout the Territory with the result that, in 1868, Central City, the headquarters of gold quartz mining, was producing $50,000 from gold quartz per week. Quartz mining brought the use of shafts, mine pumps, and steam hoisting rigs. With the development of mining lore, the smelting process was found to be a still more satisfactory method of treating the more refractory ores. In 1866, the Boston and Colorado Smelting company[2] erected its first furnace at Black Hawk, producing $300,000 in precious metals its first year. By 1878, when the company moved to Argo, a suburb of Denver, its annual output was $2,250,000. Smelters multiplied as deep mining assumed more pretentious proportions. Stamping mills, shafts, mining machinery and smelters required great quantities of capital. The result was that the profitable mining of the precious metals was closed to small capitalists, the mining population diminished, and the development of mining in the Territory awaited the investor and the speculator.[3]

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[1] Of this amount the Philadelphia mint received $4,000 in 1859, $600,000 in 1860, $1,000,000 in 1861, and $6,000,000 in 1862. "Colorado, its Resources, Parks, and Prospects," p. 125.

During the summer of 1860 the mining excitement received fresh impetus from reported discoveries of silver in the Gregory district. Other discoveries were made in the years following. In 1868 the San Juan district in the south was opened up, a district that long remained pre-eminent as a silver region. During this period, too, large deposits of iron ore were found in the mountains. Just as important were the opening up of the coal fields that lay near Denver, and, to a less extent, those to the north of the Arkansas River. The Territory's gold output in 1870 was valued at $165,000. The Denver Board of Trade in its report for 1868, commenting upon the proximity of iron ore to the coal fields, which lay within twenty-three miles of Denver, declared that the coal was "useful for smelting purposes" and averred: "It is impossible to doubt that Colorado will exert the same influences over the development of the Great Central Region that Pennsylvania does over the contiguous States." These new mineral products, combined with the output of gold, gave to Colorado a pre-eminent place among the mineral producing regions of the United States, and made Denver, as its capital, an important center for capitalistic schemes and for the distribution of machinery and supplies.[1]

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[1] Samuel Bowles, "Colorado: Its Parks and Mountains" p. 152. Bowles estimated that they produced, in that year, $500,000 in gold.

[2] Started with a cash capital of $275,000.

[3] The value of Colorado's gold mines was enhanced by the relative increase of the value of gold during the Civil War. Colorado mines were first quoted in New York markets late in the autumn of 1863.

Editor Byers in the first issue of the *Rocky Mountain News* shrewdly advised the gold seekers, lest "they all be taken off with the Cherry Creek Yellow Fever," to invest their money and time in farms as well as in mines, assuring them that there would be "more clear profit" in the former than in the latter. But they were already inoculated with the fever and mere advice, however sage, could do naught to check its heated course. Certain events of the next few years, however, did what Byers's advice failed to do. The first of these events was the above noted change in the character of mining. The second was the closing of the Missouri river for transportation above Kansas City in 1863 by the drouth of that year. Another was the inhibition of transportation and great loss to freighters caused by Indian uprisings in 1864 and 1865. As a result of all these events, prices rose even beyond those already given. Now that the gold fever had run its course, many were led by these high prices to turn from mining to irrigated farming.

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[1] References on early mining: "Colorado, its Resources, Parks, and Prospects"; Bowles, "Colorado, its Parks and Mountains"; Hall, "History of Colorado"; Bancroft, "Works," Vol. XXV; Fossett, "Colorado, its Gold and Silver Mines"; Hollister, "The Mines of Colorado."

Long before the gold discoveries, the Indians, especially those to the south, had practiced the art of irrigation. In 1846 a white man[1] had opened up an irrigation system on the Purgatoire river near Trinidad. But, warned by the Indians to leave, he departed without leaving a permanent system. The first of the permanent irrigating schemes by white men was established in Boulder in 1859, and the second[2] near Fort Collins in December of the same year. During the following seasons numerous irrigating systems were opened up. To aid such undertakings, the Legislature of 1861[3] passed an "Act to Protect and Regulate the Irrigation of Lands," the first of a long series of acts by which the irrigation law of the state was developed; it also incorporated, by private laws, seven water and ditch companies. By 1862 there were irrigation systems along all the important eastward flowing streams.[4] To promote farming interests, a Territorial Agricultural Society was organized in 1863, and chartered in 1864; it held its first annual fair in 1866. In 1861 the Platte Water Company was organized to build a ditch to irrigate the lands in the vicinity of Denver. The Denver Board of Trade reported, in 1868, that "The Platte Water Company's canal, twenty-four miles long, lately completed at a cost of $100,000, supplies Denver with water for domestic purposes, and will irrigate thousands of acres of land in this and adjoining counties." In the same year Bowles wrote that the "irrigated gardens of the upper parts of Denver fairly riot in the growth of fat vegetables." The census of 1870 reported 220,346 acres in farms in the Territory, 6,738 of which were in Arapahoe county. Nor were the irrigated districts the only ones that could glory in the glad certainty of future harvests. Throughout the Territory were wide spreading mountain parks, "plains, like counties in Illinois and Iowa, or States in New England," that could, and did, afford plenteous summer pasture to great herds. By 1866, Colorado was a self-sufficient agricultural community, by 1867 she was the feeder of Montana, the Pacific railroads and the government posts, and by 1868 "food was cheaper than in the states." This establishment of agricultural resources on a safe basis did more than any other achievement to create a sane, wholesome, industrial spirit throughout the state, and particularly in Denver.

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[1] John Hatch.

[2] Quite independent of the first, however.

[3] Laws, 1861, p. 67.

[4] Especially along the Cache La Poudre, Big Thompson, Little Thompson, St. Vrain, Boulder, Clear Creek, Bear Creek, Cherry Creek, and the Fontaine-qui-Bouille.

During this period the stage lines and freighting facilities centering in Denver from mountain and plain were multiplied in number and their equipment vastly increased. Eighteen different road or ferry companies were chartered by the first legislature alone.[1] The value of the 24,585,000 pounds of freight carried across the plains in 1865 is estimated at $150,000,000, 15,000 to 20,000 teams being used in its transportation. In the year ending June 1, 1866, the United States government sent to its western forts 40,775 tons of freight, valued at $3,314,495. It was Denver's problem to become the emporium for the receipt and distribution of this freight and trade. Toward this end, numerous stage lines were in use. There were daily stages from Denver to the west,[2] a daily stage to the north,[3] a tri-weekly stage[4] into South Park and the upper Arkansas valley region, a tri-weekly stage to Santa Fe[1] in addition to the numerous stage and freighting facilities to the east.

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[1] Of the thirty-six private acts passed by the first legislature, eighteen were for this purpose. The right to charge tolls was recognized by these charters.

[2] By the Central Overland, California and Pikes Peak Express Company. This concern was sold to Wells Fargo and Company in 1866, the legislature of 1872 legalizing the sale. Laws, 1872, p. 227.

[3] To Cheyenne and other towns.

[4] The fare to Buckskin Joe was $12.00.

To these facilities Denver early added telegraphic communication. In 1861, the Pacific Overland Telegraph Company completed its line to Julesburg. Pending its completion to Denver on October 10, 1863, messages were forwarded between Denver and Julesburg by daily coach. Soon after the line reached Denver, it was extended to Central City, thereby giving Denver telegraphic communication with the mountain districts. In 1865, the Western Union[2] Telegraph Company put up a line from Denver via Fort Collins to Salt Lake City. Telegraphic communication with the south alone was now wanting. To secure such a service, some progressive Denverites, chief among whom were D. H. Moffatt and W. N. Byers, organized a company[3] and put up a line to Santa Fe, which was later extended northward to Cheyenne, Wyoming.[4] This line and all the others as well soon passed under the control of the Western Union Telegraph Company. Denver now had telegraphic communication with all four quarters of the globe.

More important to Denver's future than the establishment of stage, mail, and telegraphic lines, was the establishment of railway lines. By making the city the nuptial railroad center of Colorado, Denver's vigorous leaders made of her the permanent industrial capital of the state. The need and the difficulty of securing railroad communication is readily pictured by recalling that Denver, today, by the shortest railroad routes, is 2,025 miles from New York City, 1,265 miles from Cincinnati, 1,438 miles from New Orleans, 1,377 miles from San Francisco, and 1,595 miles from Seattle, while from Kansas City and Omaha, then the two railroad points nearest to Denver, the distance is now, respectively, 635 and 540 miles.

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[1] The Southern Colorado and New Mexico Stage Line. The fare from Denver to Santa Fe was $105.

[2] Which had bought out the Pacific Overland Telegraph Company.

[3] The United States and Mexico Telegraph Company.

[4] By contract with the Denver Pacific Railway and Telegraph Company, another Denver concern.

None of the routes considered for the Union Pacific passed through Denver. Indeed the national survey of 1853 proved conclusively that there was no available pass along parallels 38 and 39 by which a railroad could profitably scale the mountains. This impression Denver denizens sought to have disproved by a new survey, in 1861. While this survey[1] proved conclusively to Denverites that such a route was feasible, to all others it afforded conclusive proof to the contrary, and via South Pass remained the choice of routes for the Union Pacific, despite the ardent plea to Congress by the Territorial Legislature of 1862[2] that the road might at least pass through the Territory, and that Governor Evans, an enthusiastic Denverite, be placed on the Board of Directors. The Union Pacific, when completed, came no nearer to Denver than Cheyenne, Wyoming, 100 miles away. By 1868 trains were running on the Union Pacific and a six-horse coach daily made the trip from Denver to Cheyenne. The proposed route for the Eastern Division of the Union Pacific, however, included Denver as one of its objective points and this line now received the attention of all those desirous of securing direct railroad communication for Denver and Colorado. By the early part of 1868, the road was completed to a point in Kansas 200 miles from Denver. The Territorial Legislature of that year beseeched Congress to grant "a liberal subsidy" to that "or any other railroad to be constructed in Colorado." The line was completed to Denver on June 9, 1870, and was opened for traffic on September 1.

A few days after the completion of this line to Denver, a second line entered the city, the conception and completion of which was due solely to the vigor and enterprise of Denver

[1] Made by E. L. Berthoud. The route was via the White River to Salt Lake.

[2] Laws of 1862, p. 151. Approved Aug. 13.

entrepreneurs. As early as 1861 a railroad, the Colorado Central by name, was projected to run from Denver via Golden to the mining towns. The project received definite form in 1865 when, by a special act of the Legislature,[1] a company was incorporated to build such a road. But as the mining towns then held the balance of power in the Legislature, Denver received but scant recognition in the act of incorporation as it finally passed. Golden, not Denver, was made the initial railroad centre, and lines in all other directions were to be completed from three to six years before a line was to be completed to Denver.[2] Denver's citizens demurred and for two years kept up a struggle with the company to induce it to make Denver its initial railroad centre. Their efforts in this direction proved abortive, whereupon they launched a scheme to themselves build a road to connect with the Union Pacific at Cheyenne. On November 13, 1867, a Board of Trade was organized to consider ways and means of securing such a road. The offer made by the Kansas Pacific Company, through James Archer of St. Louis, to build to Denver for $2,000,000, in county bonds, was rejected and on September 8 a Denver company, the Denver Pacific Railway and Telegraph Company, was organized with a capital stock of $2,000,000 to construct the line, Governor John Evans and D. H. Moffat being most influential in the enterprise The day following, the officers of the company were elected, B. M. Hughes being elected President, and D. H. Moffat Treasurer. Subscription books were at once opened and within a week Denver business men had subscribed $280,000.[3] The next month the county commissioners of Arapahoe county called an election to vote $500,000 in bonds toward the enterprise, a proposition that carried in January of 1868 by a vote of 1,259 to 47. Such an election was without statutory sanction,[1] a defect that the legislature at once corrected by a curative statute. Work was begun on the road-bed in May, 1868, and on June 22, 1870, under the presidency of Governor Evans, the road was opened to Denver. Denver's commercial supremacy was thereby assured.

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[1] Laws, 1865, p. 111.

[2] From Golden one branch was to run to Black Hawk and Central, to be completed in not more than three and a half years; another to Empire City and Georgetown, to be completed in four years; another northeasterly through Boulder, to be completed in five years; and one southeasterly to Denver, to be completed in six years.

[3] Report of Board of Trade, May 19, 1868.

The evolution in mining, the development in agriculture, and the transformation of freight and passenger facilities, had marked social and industrial results. The tax valuation of the state increased from a little over $8,500,000 in 1865 to $24,112,078 in 1871, a three-fold gain in half a dozen years.[2] The estimated value of the real estate in the Territory in 1860 was $13,250; in 1870[3] the actual cash value of the farms alone was $3,385,748, to which should be added the value of the farm products for the year, $2,335,106, and the value of the live stock then in the Territory, $2,871,102. The census of 1860 reported no manufacturing establishments; the census of 1870 reported 256 such establishments with a total capital of $2,835,605 and a total output for the year of $2,852,820. In 1860, 82.5 per cent. of all those engaged in gainful occupations in the Territory were miners and less than seven-tenths of one per cent. were farmers; in 1870 but 12.5 per cent. were miners and 38 per cent. were farmers. Although the population in 1870, 39,864, was but 5,587 more than it was in 1860, an examination of its constituent elements reveals significant social changes. In 1860, but 4.6 per cent. of the population were women; in 1870, 37.6 per cent. were women. The number of men in the state diminished from 32,691 in 1860 to 24,820 in 1870. That is, while 13,458 women came into the Territory, 7,871 men left it. The frenzied, speculative life of an unproved mining district had given way to the stable industrial life of a community certain of its mineral output and its harvests.

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[1] R. S., 1868, p. 134. The law was approved January 10. It authorized the issuance of county or municipal bonds in aid of any organized railroad or wagon company. The last clause of the act specifically provided that it was in no wise to interfere with the validity of "any proceedings taken for issuing county bonds . . . taken or made between the first day of December, 1867, and the first day of February, 1868."

[2] For 1866 it was $10, 610,800; 1869, $13,147,114; 1870, $16,778,050.

[3] The statistics following are taken from the census reports of 1860 and 1870.

This change in the industrial status of the Territory was reflected in the social and industrial life of Denver. During the first years of the period, Denver's population diminished, decreasing from 4,749 in 1860 to around 3,000 in 1861[1] and possibly to even less in the three years following. This decrease was due to the change in mining, to the withdrawal of the secession element,[2] to a fire on April 19, 1863, that destroyed property valued at $250,000, to a drouth in 1863, and to a destructive flood in the spring[3] of 1864. In the winter of 1865–'66 no school even was opened, for want of funds. With the development in agriculture and transportation, however, the city's population began to increase. In 1866 it was 3,500; in 1870 it was 4,759. The population of the city in 1870 was thus but 10 more than it was in 1860, but an examination of the proportion of men and women in the city at the two dates reveals a marked social and industrial improvement. In 1860 the women constituted but 12.8 per cent. of the population; in 1870 they constituted 41.6 per cent. In other words, during this decade 1,350 women came to Denver to make homes while 1,340 men left the city to try their fortunes elsewhere. In 1867 the Board of Trade[4] reported the gross sale of merchandise in the city for that year to be $5,946,000 and estimated the total number of pounds of freight received at 17,132,000; in 1871, the business of the city totaled $14,000,000, and 160,000,000 pounds of freight were received. By 1868 the city boasted six churches, two public and several private schools, two flouring mills, two planing mills, a sash and door factory, three daily and two weekly newspapers, and "long lines of brick stores."[1] Denver was now a stable, thriving village.

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[1] Hall, I; 267.

[2] Gov. Gilpin reported that the Secession element in the Territory in 1861 numbered 7,500. Paxson, "The Last American Frontier," p. 225.

[3] May 19, 1864. Loss estimated at $250,000.

[4] From a pamphlet by Ned E. Farrell in 1868, entitled "Colorado, The Rocky Mountain Gem."

The growth of new communities made Denver the political as well as the industrial capital of the state. The first territorial legislature,[2] failing to agree upon any one of the mining towns for the capital, fixed upon a site at the unknown and unsettled town of Colorado City. Here the second territorial legislature convened but, finding no comforts, adjourned, after a bitter factional fight, to Denver.[3] There were obstinate objections to Denver's being made the permanent capital, the reason that seemed most effective being that "Denver wanted everything." This second territorial legislature, before its adjournment, resolved upon Golden as the capital, and here the capital nominally remained until December 9, 1867.[4] By this time the new agricultural regions were sufficiently developed to counter-balance the influence of the mountain districts. A new alignment of votes was thus possible and, on the date given, a law[5] was passed, transferring the capital to Denver,[6] where it has since remained, despite persistent efforts to transfer it elsewhere.

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[1] Wrote Samuel Bowles in August, 1868: "The emigrant and traveler must "move on" by Denver, if he would get beyond the organization of the best American social and intellectual life."

[2] Laws, 1861, p. 63.

[3] The representatives from the southern part of the state were particularly adverse to Denver as the capital.

[4] The majority of the legislatures adjourned to Denver.

[5] Revised Statutes of 1868, p. 90.

[6] Golden, in 1870, had a population of but 587; the largest towns of the Territory, other than Golden, in 1870 were: Boulder, 34; Pueblo, 666; Black Hawk, 1,068; Central City, 2,360.

In 1872, Pueblo was prevented from getting it, says Bancroft,[1] by bribery only. The constitution of 1876 fixed upon Denver as the capital for five years, at the end of which period Denver again won out by the vote of the state electorate.

Denver's part in promoting the economic stability and the industrial transformations just portrayed was important and highly valuable. Her chamber of commerce, on May 8, 1861, fixed a uniform rate at which gold dust was used as the circulating medium of the district.[2] Her part in securing transportation facilities has already been noted. To enhance the returns from mining, through the avoidance of the risk and delay of long shipments, steps were early taken to secure for Denver a branch of the United States mint. Both the first[3] and the second[4] territorial legislatures memorialized Congress for such an institution. Congress, on April 21, 1862,[5] passed a bill creating a Branch Mint at Denver, and appropriating $75,000 thereto. Early in 1863 the lots and assaying house of Clark, Gruber and Company, a concern that had been running a private mint in the city since February 20, 1860,[6] were purchased, and a branch of the national mint at Denver became a reality, though it long remained nothing more than an assaying office.[7] Until 1865 the banking institutions of the city had been private concerns. On April 17 of that year the First National Bank of Denver was incorporated, was opened for business on May 9, and issued its first currency on August 22. Jerome B. Chaffee was its President and, from 1876, D. H. Moffat, Jr., was its cashier. Denver was early made the headquarters for the sale of the public lands in the Territory.

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[1] Bancroft's "Works," XXV; 418.

[2] These rates were: Blue River gold, $20 per oz.; French Gulch, Hamburg gulch, Fairplay, Nigger and McNulty gulch, $17 per oz.; California gulch gold, $16 per oz. Before this there was a uniform rate of $18 per oz.

[3] Laws, 1861, p. 513.

[4] Laws, 1862, p. 154.

[5] Congressional Globe, 1861–2, p. 349.

[6] They coined five, ten and twenty dollar gold pieces and continued to do so until the actual establishment of the Branch Mint.

[7] The legislature of 1868 memorialized Congress to authorize the Branch to coin silver money, that the miners of the Territory might be supplied "with money from the precious metals they have contributed to produce," but Congress paid no heed to the petition.

Added instances of the position of Denver during this period are needless. Enough have been given to show the close relation, industrial and political, between Denver and the rest of the Territory. On every hand were opportunities for industrial organizations that gave rich promise of ample returns. Yet the success of individuals and of corporations was closely interwoven with making Denver the chief city of the region. Denver's citizens were thus bound together in a closely knit social group, the mission of which was to make of their town a metropolis. This inward frame of mind, that invisible social institution which creates and alters the governmental and industrial life of a city, motivized the changes and activities of the city government. Let us see what its fruitage was.

## CITY GOVERNMENT.

There were six sessions of the territorial legislature during this period, meeting, respectively, on July 2, 1862, February 1, 1864, January 2, 1865, January 1, 1866, December 3, 1866, and December 2, 1867. Each, save the session of 1862, passed special legislation pertaining to Denver and all passed laws of general interest to the city. In 1864 and in 1866 fully revised charters were enacted. Neither the numerical nor the actual influence of Denver in these legislatures was very great. Arapahoe and Douglas counties constituted both a Council and a Representative district. To this district was apportioned two of the thirteen councilmen and four of the twenty-six representatives.[1] Until very late in this period the mountain districts had full control of the legislature. Denver, therefore, could secure local legislation mainly through vote-bargains only and had no extensive influence in shaping general legislation. As this period covers the years of the Civil War, both Denver and Colorado were, of course, Republican in politics.

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[1] Laws, 1862, p. 58, and R. S., 1868, p. 420.

First to be noticed is the enlargement of the boundaries of the city and the quieting of many titles to lots therein. In 1864[1] the boundaries were slightly increased, and in 1868[2] 1,500 acres[3] were added, making the total number of acres in the city's limits 3,740. But of more vital import to the citizens of Denver was the quieting of title to the lots within "the Congressional Grant." The 1,000 acres upon which the Denver town company filed in 1869 was all Indian land. Not only had the title never passed to the United States, but the United States by treaty had solemnly agreed that the title thereto should "forever" rest with the Indians. Title to the land passed to the United States in the autumn of 1860 as a result of a special treaty with the Indians. But the only law under which entries for town sites could be legally made was the Congressional law[4] of 1844 which provided for the entry for town sites of but 320 acres. Each of the three Cherry Creek towns had entered 320 acres, but when the towns became one by the first legal statutory charter, only 320 acres, not 960, could be held. Congress was appealed to for aid but none was given, because of the absorption of Congress in war affairs, until 1864 when a law[5] was passed for "The Relief of the Citizens of Denver," granting to the city title to all the 960 acres. By these laws[6] the probate judge of Arapahoe county was authorized to enter this land in trust at the minimum price, $1.25 per acre. This he did, paying $1,196.60 for the land now in the heart of Denver. Owners of the land were given 90 days to file their claims, at the end of which time the city of Denver filed upon the unclaimed lots as city property to be used for school purposes. Numerous conflicts over titles at once arose and much bitter feeling was aroused. Title to many of the lots was quieted only by litigation ending in the Supreme Court.[1]

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[1] Laws, 1864, p. 170.

[2] Private Acts of the Seventh Session, p. 20. Approved Jan. 9, 1868.

[3] Unplotted land. It was alleged that this addition was solely to get more land for taxation, 3 Colo., 169.

[4] Approved May 23. U. S. Statutes at Large, V; 657.

[5] Approved May 28. Ibid., XIII. 94.

[6] Both of 1844 and 1864.

The enumerated powers of the city were greatly extended. The disastrous fire of 1863 taught the necessity of the city's possessing greater power over building regulations and over the prevention of fires. The council was specifically empowered by the following legislature,[2] not only to prescribe building regulations, but also to remove any building erected contrary to the ordinances of the city. It was also empowered to appoint fire wardens and property guards with full power to preserve and protect property. The flood of the spring of 1864 revealed for the first time that the bed of Cherry Creek was not a safe place for the erection of buildings and for a hold-all for garbage. Theretofore, as there had been little or no water in the stream, it had been freely obstructed, the loss of property in the flood of 1864 being due largely to the garbage and buildings in the bed of the stream. After the flood, the council[3] ordered a special survey of the stream, then ordered it plotted in accordance therewith and asked the legislature of 1865 for greater powers over the channel. The legilsature[4] empowered the council "to define and fix the boundaries of the channel, . . . to remove obstructions therefrom and to prevent persons obstructing the same." The council by ordinance then defined the channel in accordance with the special survey, declared it to be public property, laid down the procedure by which the city could wrest from individuals title to any portion of it, and declared that it should forever thereafter be open, free, and unobstructed. Such was the first but not the last legislation and public action as to Cherry Creek. Few indeed have been the years since then when the Creek has not claimed a goodly share of public money and attention.

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[1] Cofield v. McClellan, et al., 1 Colo., 370; City of Denver v. Kent, 1 Colo., 336; 3 Colo., 330. See also Laws, 1872, p. 191.

[2] Laws of 1864, p. 170.

[3] See Revised Ordinances of 1866. Compiled by B. B. Stiles. Contains all the ordinances from November, 1861, to July 25, 1866. The council adopted them on July 5 but, failing to comply with the provisions of the charter as to publication of ordinances, had to ask the legislature of 1867 to legalize the compilation, which it did. Laws, 1867, p. 63.

[4] Laws, 1865, p. 109. Approved February 10.

The need of the growing village for sidewalks and street improvements, far in excess of what the village treasury could possibly secure, led to the introduction of clauses in the charter of 1864[1] granting to the council wider powers over street improvements. The council was authorized to levy the damages and costs of opening or widening streets upon the lots deemed benefited thereby and to levy "a special tax on the lots of any street or alley, according to their respective fronts . . . for the purpose of paving, grading, planking, or otherwise improving" or lighting the same, the tax not to exceed the actual cost of the improvement. The council was further empowered, "at the expense of the owners of the ground fronting thereon," to construct, clean, or repair sidewalks and gutters, and to remove obstructions or encroachments therefrom. In lieu of three days of street work, as before described, the council was given "the exclusive right" to levy a poll-tax, not exceeding $1.50, upon every male inhabitant over twenty-one years of age, to be used in repairing and cleaning the streets."[2] Under these provisions, the council[3] levied a poll tax of $1.50 upon all male residents of the city 21 to 49 years of age inclusive, and required the entire expense of paving, grading, or improving any street or alley, including the cost of preliminary surveys, to be borne by the owners of fronting lots in proportion to their linear frontage. No improvements were to be begun, even, until the tax was actually "collected and paid into the city treasury." Improvements made upon the initiative and at the expense of owners had to be done in the manner approved by the council. By these means street improvements could be made at little public cost.

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[1] Laws, 1864, p. 170.

[2] The procedure for taking private property for public purposes was also detailed in this charter.

[3] Revised Ordinances of 1866, p. 56.

The revised charter of 1864 reflects the initial conflict between the city and the state as to control of vice. The council by the charter of 1861 had power to suppress gambling and bawdy houses but made no use of the power save to prohibit three-card monte. In 1864 this power over such resorts was omitted from the charter and a general state law[1] was passed suppressing gambling and gambling houses, and fixing the penalty for keeping a gambling house or allowing gambling on the premises at imprisonment for not over one year and a fine of from $50 to $300. The gamblers themselves were made subject to somewhat lighter penalties. Warrants for the arrest of violators of the law were made issuable upon the oath of any person, and it was made "the duty of every marshal, sheriff, constable and policeman" to enforce the law. Half the fine was to go to the informer, and half to the common schools. But such a law was not acceptable to Denver and therefore the next legislature was importuned to free the city from its application. This it did[2] by a special act, which declared that the general law as to gambling should "not be operative in the City of Denver" and revested in the city the same powers over such matters as it had by the charter of 1861. In all the other towns and counties of the Territory the law remained operative. But by the time of the succeeding legislative session, the tide had again turned to state-wide control and a general law[3] was passed which prohibited gambling by even more

[1] Laws, 1864, p. 96.

[2] Laws, 1865, p. 72. Approved Feb. 9.

[3] Laws, 1866, p. 56. Approved Jan. 20.

stringent penalties. In revising Denver's charter,[1] the legislature gave to the city "power to prohibit gambling and gambling houses, bawdy houses, disorderly houses and houses wherein lewd persons assemble for dancing," and power to license, regulate, or prohibit "tippling houses and dram shops," but specifically prohibited to it all powers to "license gambling or gambling houses." The council,[2] in pursuance of these charter provisions, licensed the sale of liquors, fixing the amount of the license at $200 per year for spirituous and $140 per year for malt liquors, and prohibited all gambling by cards or any other device, and all gambling or bawdy houses. But the penalty for disobeying these prohibitions was made so light and so flexible (a fine only, the amount of which could not be less than $10 nor more than $100) as to amount virtually to a license. This policy made inevitable favoritism in police protection, corruption in the police force, and a vacillating municipal policy with all its temptations and ills. Thus the general law was evaded, as it usually is when local public opinion is at variance with the public opinion of the state, especially when the state has no police officials of its own to enforce its laws.

Added powers were granted to the city over licenses, taxes, and debts, and statutory control over these subjects was correspondingly diminished. The charter of 1866 added to the section enumerating the articles and occupations which the city could license, a general clause permitting the licensing of any occupation or the sale of any article not the product of the Territory. The council[3] made extensive use of its license powers. To avoid the expense of making out two assessment rolls, the charter of 1864 permitted the city council to adopt the assessment roll made by the assessors under the general law, as the assessment roll for the city. As taxes were collected by a city collector and not by the county treasurer, this charter also introduced the procedure, repeated in later charters until the office of city collector was abolished, by which that official should collect delinquent taxes. Under the existing charters and Territorial statutes, the council not only determined what the tax levy should be and upon what it should be levied, but also determined what property should be exempt from taxation. The exemptions[1] were made by ordinance. The maximum debt limit was increased and fixed at concrete sums, in lieu of the method used in the charter of 1861. The charter of 1864 fixed the debt limit at $6,000, existing debts not to be counted in determining the maximum; the next legislature[2] increased this amount, because of the contemplated expenditures on Cherry Creek, to $15,000; and this amount the charter of 1866 increased to $20,000, exclusive of existing debts.

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[1] Laws, 1866, p. 95. Approved Feb. 9.

[2] See Revised Ordinances of 1866.

[3] Revised Ordinances of 1866, p. 80 ff. The amounts of the licenses for each quarter of the year were: auctioneers, fifty dollars; billiard tables, bowling alleys and pawnbrokers, twenty-five dollars; shows and exhibitions, fifty dollars; drays, fifteen dollars; peddlers, ten dollars; dogs, two dollars to three dollars. Carriages, porters, and dramshops were also licensed, dramshops at one hundred and forty dollars to two hundred dollars per year. The charter of 1864 permitted a dog tax of not over ten dollars.

The chief problem of the period, it seems, was to settle upon the number and title of city officials and to determine which were to be elective and which appointive. Before the election of April 1, 1862, the council, by ordinance, created two positions out of the single office of "city clerk and attorney," changed the title of city marshal to police marshal, and, later,[3] abolished the office of chief of police. Before the election of 1863, the council abolished the elective office of street commissioner, ordered the election of two police justices, in lieu of the one police magistrate, and created distinct offices for the city treasurer and city collector, theretofore combined. The charter of 1864 specifically repealed all the provisions of the charter of 1861 pertaining

[1] Rev. Ords., 1866, p. 50.

[2] Laws, 1865, p. 109.

[3] June 12, 1862.

to the police magistrate,[1] and authorized the council to designate as magistrates, with jurisdiction over cases arising under the charter and organic law of the city, two of the regularly elected district justices of the peace. The council was also given plenary power over the abolition, creation, appointment, and salaries of all the non-elective officers, and the treasurer of the city was enjoined to report to the council in detail at the close of each calendar month. The council, in 1864, combined the three offices of city clerk, city assessor, and city collector into the one office of "city clerk and assessor." After a year's experience with this combination, however, the position of city collector was made separate and distinct. The legislature of 1865 abolished the elective office of city marshal and vested in the council full power over the appointment, removal, tenure, and remuneration of that official. The charter of 1866 made an entire new alignment of the elective and appointive officials. The mayor, the city assessor, the city surveyor, and the city marshal were made elective for one-year terms, while the city clerk, city attorney, city treasurer, city collector, and such other offices as the council might create were made appointive with full power in the council over their tenure, appointment, duties, and compensation. While the council thereby lost its power, enjoyed for one year, to appoint the city marshal, its administrative control was greatly strengthened as a whole by the extension of its powers over all the other appointees, and by the power to provide by ordinance for the removal of three elective officials, the assessor, surveyor, and marshal, and to fill vacancies resulting from such removal, until the next election.

The city council, by ordinance, made the most of all its powers over appointive officials.[2] One of the officials appointed by the council was the city clerk.[1] From 1864 to 1866, inclusive, the council appointed the elective city surveyor as city clerk, but after April 1, 1867, some one not an official of the city was appointed. In addition to the usual duties of the office, the city clerk was made, in effect, the auditor of the city.[2] The treasurer was appointed by the council to serve without compensation. The council appointed the city attorney, and gave to him, in addition to the powers usually vested in that officer, the rather unusual right "to be heard upon all questions or motions" pertaining to ordinances. In 1866, for the first time, the appointive office of city physician was created, its incumbent to serve without compensation, as the executive officer of the board of health. The board of health, entirely ex officio, consisted of the mayor, the marshal, and the city physician, and its sole mission was to prevent the spread of dangerous and contagious diseases. The office of street commissioner the council revived for one year in 1867 but it was then abolished, not to be revived again until 1881. To the city collector was given the duty of collecting in person all the city taxes, with power to enforce the payment of delinquent taxes. The taxes he was instructed to pay into the city treasury[3] "as fast as collected, and at least as often as every Monday." The council appointed all the police. The mayor, the aldermen, the marshal and the police were made ex officio fire wardens, and to this list was added other fire wardens appointed by the council.[4] The council appointed all these city officials[1] for one-year terms. Appointments were made by ballot, a majority being necessary for a choice. Removals could be made, upon hearing, for "incompetency, or any dereliction, or violation of duty," while failure to perform any assigned duty was made punishable by a fine of from $10 to $100.

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[1] The Supreme Court in 1871 declared the office of police magistrate to be unconstitutional as no such officer was recognized in the organic act. 1 Colo., 323.

[2] See the Revised Ordinances of 1866.

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[1] For this office the council allowed a salary of seven hundred dollars and certain fees.

[2] The city treasurer annually made reports to the clerk and the clerk to the council. The clerk was enjoined to publish his annual statement in the corporation newspaper.

[3] His bond was fixed at $10,000.

[4] Fire limits were established and fire-proof buildings required thereon. From 1865 to 1884 the fire company or companies were composed solely of the volunteers.

The council not only controlled these appointive officials but went far toward controlling the elected administrative officials as well, and often added to their charter duties. The surveyor was given a surveyor's and an engineer's duties toward the streets, public improvements, and buildings. His remuneration was wholly from fees prescribed by ordinance. The council detailed the duties of the assessor, the forms he should use, and his methods of assessment, but upon the compilation of the assessment roll, it held a public meeting, two weeks' notice of which was given in the newspapers, and after or during the hearing, revised the roll as it deemed best. The council, in pursuance of the charter provision that it could provide for the removal of the marshal, surveyor, and assessor, decreed that they could be removed by the council for "any misdemeanor, neglect, or dereliction of duty."[2]

Over the police and judiciary as well the council retained ultimate control. The mayor was the nominal head of the police department, having supervisory power over the marshal and police, and power to appoint special policemen and remove all negligent policemen, but as such removals and appointments were valid only until the council took action thereon, and as the permanent removal of the marshal and the policemen and the determination of their salaries vested with the council, it is evident that the mayor had no power or influence that the council did not care to delegate to him. The council's supervisory control over the judiciary was maintained through its ordinance that "any order" or decision of the police justice of the city could be revoked or annulled "at any time" by the council.[1]

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[1] Clerk, treasurer, attorney, physician, street commissioner, fire wardens, police, and police justice.

[2] The charter used the words "omission or neglect of duty," only. The complaint could be made by the mayor or any two aldermen in writing, whereupon the council appointed a commission of three to investigate.

The council was the contract-making power of the city. The ordinance on city printing provided that the newspapers of the city should put in bids therefor, and that the council, taking "into consideration the style and character of the newspaper," should let the contract, not to the lowest bidder necessarily, but "to the lowest responsible and best bidder," a wording that gave to the council every possible latitude. Similar latitude the council reserved for itself as to other contracts. By the statutes of 1865,[2] it was made unlawful for the aldermen of any incorporated town or city[3] to be pecuniarily interested in any city contract, and unlawful for them to receive from their municipalities any money or other thing of value, save their salaries. The penalties provided for breach of the law was a fine of from $100 to $500, and forfeiture of office. This law was the only limitation upon the contract making power of Denver's council.

The Territorial election laws left to the city council both legislative and administrative powers over the city elections. The council, by ordinances, regulated in detail the election duties of the city clerk, the salary and duties of the election judges and clerks, the character and use of the pollbooks, ballots, ballot-boxes, the challenging of voters, the election procedure, and the procedure of the council as a canvassing board. Undefined terms of the law, the ordinances defined. For instance, the general law required that city voters should be for ten days residents of the ward in which they voted; the council defined the term "resident" to mean any one who was "accustomed to lodge" in his ward. The council, therefore, was the important power in the city's elections.

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[1] This, of course, applied to violations of city ordinances only. When acting as justices of the peace, the council could not revoke their orders. The general law provided for juries in certain trials before justices of the peace. The city's ordinances extended the same privilege to such defendants as would pay the jury fees in advance.

[2] Laws, 1865, p. 49. Approved Feb. 10.

[3] There were but three in the Territory at this time, including Denver.

The government of the municipality during this period, then, was vested solely in the council. A mayor was elected, to be sure, but his powers and influence were only those of an alderman. The charter of 1864 gave to the mayor power to vote on all questions instead of in case of tie only, thus extending his legislative influence, and this influence was further extended because he was elected at large while the aldermen were elected by wards. But in no sense was he the executive head of the city's affairs. Nominally, he was at the head of the police but over him was a committee of the council. He issued the licenses[1] prescribed by the council, but the council reserved to itself power to annul or modify any of his actions. He was simply a legislator with large delegated administrative powers. Early in the year 1866 the council redistricted the city into four wards, each of which elected two members to the council. The governing body of the city, then, during this period, was, in practice, an elected council of nine members, eight of whom were aldermen elected by wards and one of whom, elected at large, was styled mayor and was ex-officio the presiding officer of the council. In this body was vested both legislative and administrative powers. Its administrative powers were exercised through seven standing committees, appointed by the presiding officer unless the council preferred to appoint them by ballot. These committees were: the committee on finance; on streets, alleys, and bridges; on license and tippling houses; health; police; fire department; and on the town site.

Denver, during these first years of her municipal existence, tested fully the council form as a structural plan for city government. So long as she remained a village with village problems, that form sufficed, but as her problems grew larger and the business organization of corporations changed, the council plan had to be abandoned. In the last year of this period, indeed, events arose that proved the inefficiency of a multiple-headed executive. As work on the railroad beds approached Denver, the city became infested with many "all around bad men," hangers-on of the construction gangs. Outlawry of all kinds became common and threatened to increase. The police magistrate of the city was himself held up and rifled of all his money. A vigilance committee was again organized, composed of well-known men. This committee ferreted out the worst of the brigands, hanged[1] two of them, and announced that there were a dozen other men of similar character in the city that would likewise be hanged unless they left in twenty-four hours. Several hours in advance of the expiration of the allotted time, forty or fifty men were fast putting stretches of the plain between themselves and Denver, and the vigilance committee had accomplished what the city council had failed to accomplish —civil order and protection. For efficient administration, the council form of government was, with increased business, destined to become as inefficient as it was in securing civil order in time of stress. From this period until the present, the evolution of Denver's government has been away from the council form. The forces that caused that evolution, and the changes that were made, it is the purpose of the succeeding chapters to follow.

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[1] Liquor and other licenses were issuable either by the mayor or the council but the mayor issued the most of them.

The territorial legislatures of this period passed many acts of general interest to Denver and of particular interest to other municipalities of the Territory. Among the laws of the former character was a law[2] providing for the appointment of a flour inspector in each county, by the probate judge thereof, and a law[1] providing for the support of paupers, their support being entailed upon the county commissioners of each county, thus relieving the towns and cities of this expense. The legislature of 1862 provided for school funds. Among the laws of municipal interest were those chartering other cities and a general law providing for the organization and government of towns and cities not under special charters. In 1864 Black Hawk[2] and Central,[3] and in 1867 Georgetown[4] were granted special charters. These, and Denver, are the only towns for which special charters have been enacted. The government provided for all these cities followed, save Georgetown,[5] traditional village types. Not until 1868 was a general municipal act passed under which any city or town could become incorporated and substitute a municipal for a township government. The act[6] provided for a council form of government with either five or seven members in the council, dependent upon whether the population was below or above 1,500. The tenure of all officers was one year. When the population of any town reached 3,000 or over,[7] it could assume this "city organization" with not over six wards and with a mayor elected at large. It is interesting to note that such is practically the scheme of government still in vogue, in the third and second class cities of the State.[8]

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[1] One at nightfall of December 1, and one at the middle of the afternoon of December 2, 1868. Smiley, History of Denver, p. 436.

[2] Laws, 1865, p. 69. Repealed by Laws of 1876, p. 76.

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[1] Laws, 1865, p. 93. The first legislation on the subject.

[2] Laws, 1864, p. 228. Approved Mar. 11. The first territorial legislature had incorporated Altoona and Boulder county.

[3] Ibid., p. 240. Approved on same date.

[4] Private Acts of seventh session, p. 8. Approved Jan. 10, 1868.

[5] The Georgetown charter centered authority in an elected police judge, making him the chief executive, the leading judicial officer and the president of the council.

[6] Rev. St. of 1868, ch. 84.

[7] There were none in the Territory then save Denver.

[8] Towns of third class are those with a population of under 2,000 and are governed by a board of trustees. Second class cities are those of between 2,000 and 15,000, and are governed by a council and an elected mayor, with few powers. First class cities, 15,000 and over in population, approach a mayor form of government.

That is, all the towns of Colorado, including Denver, started out with a council form of government. But in those cities where industrial activity has been keenest, and especially in Denver, the council form has been abandoned.

## PUBLIC SERVICE CORPORATIONS.

As to public service corporations, this era was one of outlook and proposals but not one of accomplishment. Not the village that was, but the city that was to be, lured men to organize in prospect public utility companies. The time was indeed most propitious for securing franchises for such concerns. Everybody wanted, at any cost, the services that public service corporations are wont to render, and the best interests of the future city demanded them. Hence there was no scrutiny of franchise privileges as to tenure, rate regulations, extensions, or social or financial remuneration. The company had but to draw up its own franchise. Denver's charters contained no provisions as to the power of the city to grant franchises. The general municipal act gave to the towns organized under the general law power to authorize the construction of tram and horse railway companies, but to Denver no such power was given. By another general law of 1868,[1] however, approved on January 10, the mayor and city council of any incorporated city, which would include Denver, were authorized to grant franchises to incorporated gas companies with the proviso that, if any company expended $50,000 in the first eighteen months, its right to the streets should thereby become exclusive.[2] The law also fixed the maximum[3] charge. This law the Denver council at once made use of. In the meantime the territorial legislature itself had been granting franchise privileges to Denver's streets.

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[1] Rev. St. of 1868, p. 141.

[2] The life of these companies was limited to thirty years.

[3] Not over $6 per 1,000 cu. ft. for the first ten years and $5 per 1,000 cu. ft. thereafter.

The legislature of 1862 passed a general law,[1] freely amended by later legislatures, prescribing the procedure for incorporation. This act did not prohibit incorporation by private act, hence all the earlier territorial legislatures passed many such acts. One of these acts[2] incorporated "The Denver Manufacturing and Milling Company," while others incorporated several gas companies that successively contemplated supplying Denver with illuminating gas. The legislature of 1864[3] incorporated "The Occidental Gas Light Company of the City of Denver," granting to the company the exclusive privilege for thirty years of supplying the inhabitants of Denver with gas, a privilege that the company made no attempt to use. On May 18, 1866, and on December 27, 1867,[4] two other Denver gas companies were incorporated under the general law, and on the very day that the law granting to cities power to issue franchises to gas companies was approved, the council issued to one of these companies a franchise authorizing it to lay gas pipes in the city's streets, gas to be furnished by August 1, 1869, at $5 per 1,000 cubic feet. It was this franchise that Col. James Archer later secured for the first company actually to supply gas to Denver's citizens. In the interim, however, other abortive gas companies were organized. On the day after[5] the council granted the franchise just mentioned, the legislature, by private act, incorporated "The Consolidated Gas Light Company of the City of Denver." Its capital stock was $100,000, the maximum charge was fixed at $5 per 1,000 cubic feet, and the county commissioners of Arapahoe county were empowered to regulate the price "for gas sold to private consumers." On July 3, 1868, the "Denver Coal and Gas Light Company," a purely fake concern, and on October 14, 1869, "The Denver Gas and Water Company," were organized. Though none of these companies brought gas to the city, their organization denotes a willingness to capitalize the future needs and prospects of the city, the moment its industrial future was assured.

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[1] "An Act to Enable Road, Ditch, Manufacturing and other Corporations to Become Bodies Corporate." Laws, 1862, p. 44. App. July 26.

[2] Laws, 1864, p. 195.

[3] Laws, 1864, p. 191. The law fixed the maximum charges.

[4] Smiley, p. 474.

[5] January 11, 1867. Laws, 1867, p. 121.

Another interesting attempt was to establish a horse railway system in the city, or if not actually to establish it, at least to get control of the privilege for sale. On January 10, 1867, the territorial legislature, by a special act,[1] incorporated "The Denver City Horse Railroad Company." Though the company was to operate solely in Denver, this special law granted to it for "a period of thirty-five years, the sole and exclusive right and privilege of constructing a horse railroad in the city of Denver and the additions thereto" with power to "dig upon" and use therefor the city's streets. The capital stock was $100,000, subject to increase by the company at pleasure. The only rate regulation or other requirement of the company, save that it should begin work within a year, was that "the charge for each passage was not to exceed ten cents." The company did not begin work within the year, yet sold its franchise in 1871. This[2] was the last of the local franchises granted by the territorial legislature. Within two months after the passage of this special act,[3] the national Congress forbade the territorial legislatures to "grant private charters or especial privileges," requiring general incorporation laws in lieu thereof.

No permanent water companies were formed during this period, save for irrigation purposes. In February, 1859, within four months after the organization of the Cherry Creek towns, "The Auraria and Cherry Creek Water Company" was organized to convey water to the city by a ditch. To encourage the enterprise, the city directors[1] offered the company "one entire Block in the City of Auraria," but that did not prove sufficient temptation and the scheme was never carried out. Early in 1860 a similar proposition was made to the Denver directors but it, too, proved abortive. At the same time, however, a movement was started that resulted in the completion by a private company, in the spring of 1865, of the Platte Water Ditch, a ditch that brought water from the Platte 27 miles above the city, and proved of as great service to irrigation without, as within the city. The next year the legislature[2] granted to the city power "to provide for and regulate the manner of introducing water into the city for irrigating and other purposes" and on April 16, 1869, the council granted to the Platte Water Company an irrigation franchise. But not until early in the next period was a water company formed to supply the city's inhabitants with water for domestic purposes.[3]

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[1] Laws, 1867, p. 105.

[2] On the same date the legislature incorporated and granted a local franchise to The Golden City Water Company. Laws, 1867, p. 134.

[3] March 2, 1867. XIV Statutes at Large, 426, and XVII, 390.

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[1] Smiley, p. 793.

[2] Laws of 1866, p. 100.

[3] In the interim, drinking water was obtained from private wells.

# CHAPTER III.

## 1869–1876.

## TENDENCIES TOWARD A MAYOR FORM.

### INDUSTRIAL AND SOCIAL BACKGROUND.

This period dates from the year following the permanent location of the Territorial capital at Denver to the year in which the city became, by the adoption of the constitution, the capital of the state. It was an era of steady industrial development despite the panic of 1873 and the grasshopper plague of 1875. The panic of 1873 did not have the serious results in Colorado that it had in other parts of the country. None of Denver's banks were forced to close, the assessed valuation of the Territory increased from $35,582,438 in 1873 to $44,392,806 in 1874, and immigration into the Territory was stimulated, rather than deterred. The losses of the grasshopper year were severe, yet temporary, and did not long deter development.

There was steady though not phenomenal development in the mining industries, the characteristic feature being that, in 1872, the coin value of the silver output first surpassed[1] the coin value of the gold output. The coin value of the gold output incraased from $2,000,000 in 1870 to $2,726,315.82 in 1876; the coin value of the silver output increased from $650,000 in 1870 to $3,315,592 in 1876. The coin value of both the gold and silver output was $29,751,851.18 for the seven years from 1870 to 1876, inclusive, as compared with $27,543,081 for the twelve years from 1859 to 1870, inclusive, a gain of over $2,200,000 in a much shorter period. The output of coal, iron, and copper was also increased.

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[1] The coin value of the gold output in that year was $1,725,000; of silver, $2,015,000. Gilpin county was the leading producer of these metals, yielding $18,126,564 in gold and silver during the nine years ending in 1880.

Irrigation projects multiplied and thousands of acres were thereby made exceedingly profitable for cultivation. In the decade following 1872, 2,501,318 acres of public lands in the Territory were transferred to private ownership. Irrigation schemes were subsidized in 1872 to the extent of exempting them[1] from taxation. The irrigation interests of the Territory were furthered the next year by a Trans-Missouri Irrigation convention, held in Denver on October 15. The territorial legislature of 1874[2] implored Congress to grant national aid to irrigation systems, the ownership, "exclusive control, and direction" of which should vest in the Territory. The reasons assigned as to why national aid should be given were that the Territory received no share of the River and Harbor appropriations,[3] and that "irrigation systems (were) too expensive for private corporations, Territorial or State Governments, to successfully construct." This resolution is of chief interest, not because of immediate aid, for none was granted, but because it was a forerunner of the national aid of the decade just past. The increase in the number of large irrigating schemes led to the establishment of many new agricultural communities, chief of which were Greeley, Longmount, Colorado Springs, and Fort Collins.[4] The possibilities of irrigation in all parts of the Territory were enhanced by the introduction of fruit growing in 1873.[5] By 1882 the orchard products of the state were valued at $1,250,000.

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[1] The constitution forever exempted them from taxation.

[2] Laws, 1874, p. 332.

[3] The memorial pointed out that the "last congress had appropriated over $6,000,000 for river and harbor improvements, none of which was to be spent in Colorado."

[4] Greeley and Longmount in 1870, Colorado Springs in 1871, and Fort Collins in 1873.

[5] Small fruit, such as strawberries, had been grown successfully since 1865.

Steps were taken by the legislature to encourage immigration into the Territory. The legislature of 1870 passed an act under which immigration companies could easily incorporate and invest themselves with certain corporate powers, chief of which was the right to deal in real estate. The same legislature[1] petitioned Congress to encourage, by proper legislation, "the immigration of Chinese" into the Territory on the grounds that such labor was "eminently calculated to hasten the development and early prosperity of the Territory, by supplying the demand for cheap labor." The succeeding legislature[2] created a Territorial Board of Immigration to encourage immigration. Toward this same end, the statutes of 1879[3] provided that the Secretary of the State Board of Land Commissioners should act also as the State's immigration agent. In the decade following 1870, the population of the Territory increased 387.5 per cent.[4]

The foresight and vigorous optimism of the makers of industrial Denver found their fullest fruition in the railroad development of this period. The first train over the Denver Pacific reached the village on June 22, 1870, and the first train over the Kansas Pacific came in on August 15. In the fall of the same year, the Colorado Central, the building of which had been delayed by the hurried and unexpected building of the Denver Pacific, began to run trains[5] between Denver and Golden and, in 1872, its service was extended to Black Hawk, thus giving Denver good rail communication with the mining districts. Of deep import to the city's future was the conception and completion of the Denver and Rio Grande, running southward along the base of the mountains, rendering tributary to the city the agricultural wealth of the plains and the mineral wealth of every available canyon.

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[1] Laws of 1870, p. 172.

[2] Laws of 1872, p. 137.

[3] Laws of 1879, p. 171.

[4] From 39,864 to 194,327.

[5] Two passenger trains daily. Laws, 1874, p. 335.

The line was promoted by General William J. Palmer and financed by a group of Philadelphia capitalists.[1] Construction was begun in 1871. The line reached Colorado Springs in 1871, Pueblo in 1876, and Canyon City, with its coal fields, 337 miles from Denver, in 1878. During the succeeding period, it was completed to Leadville and to Ogden, Utah. Two other local roads were built. The Evans-Moffat group of Denver entrepreneurs[2] promoted the Boulder Valley Railroad, an offshoot of the Denver Pacific, to tap the coal fields around Erie and the farming region around Boulder. The former place was reached in 1871 and the latter on January 1, 1874. Rail communication with the coal fields caused a drop of from four to five dollars per ton in the retail price of coal in Denver[3] and the completion of the line to Boulder rendered directly tributary the products of the irrigated fields of the Boulder valley.[4] The same group of promoters devised and financed The Denver and South Park Railway, to lead southwest from Denver, via the Platte canyon, into South Park with its vast agricultural and mineral resources. Arapahoe county, but another name for Denver, for almost all of the county's population was in Denver, in June, 1873, voted $300,000 in bonds toward the project. With this sum the line was completed to Morrison in July of 1874. Five years later it crossed the Divide into South Park, reaching Leadville, under an agreement with the Denver and Rio Grande, in 1880, whereupon it was sold to the Union Pacific. To all these roads the city council freely granted rights of way for tracks and telegraph lines, very properly asking for no immediate recompense, but recklessly making no safeguards for the future.

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[1] Congress specifically granted to the road a 200 foot right of way over the public domain, not over twenty acres at each station for public buildings, and the material available in forest or quarry for construction or repair. Acts and Resolutions of the 2d sess. of 42d congress, p. 363.

[2] John Evans, D. H. Moffat, C. W. Cheesman, and W. N. Byers were the principals in the undertaking.

[3] Cartage by wagon had cost $10 to $15 per ton.

[4] Ordinances, 1881, p. 287, 299, and 305.

Railroad communication with the richer portions of Colorado was not by any means the only railroad problem that Denverites were busied with. It was of prime importance to the city of the future that she be in touch with the great transcontinental lines. It is a mistake to think that all the thousands of men that left Colorado during its earliest years returned to their homes in the East. Many of them became professional prospectors and followed the gleam of the precious metals into every canyon and nook in the Rockies. As they cried out their discoveries, mining camps sprang up in the places that proved most meet for development. These mining camps became the nuclei for Territorial governments and these Territories became the objective points for the five[1] transcontinental railroads chartered between 1862 and 1871. Denver put forth every effort to get into touch with these railroads. The Denver Pacific connected with the Union Pacific at Cheyenne. Upon the completion of the Denver and Rio Grande to Pueblo,[2] Denver had communication, via the Santa Fe, with the southern transcontinental lines, and the completion of the Kansas Pacific gave communication with the lines of the East. By the end of this period, therefore, Denver, with five lines, was by far the best railroad centre beyond the Mississippi, and her industrial future was secure.

The industrial development in the Territory and the increased transportation facilities, had marvelous effects upon the growth of Denver and the spirit and optimism of her citizenry. In the first four years of the period her population trebled, the actual net gain being 9,438.[3] The assessed valuation of the city in 1871 was $6,772,908. The volume of the city's business increased in one year, 1872,[4] $3,500,000.

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[1] The Union Pacific, the Northern Pacific, the Atlantic and Pacific, the Texas Pacific, and the Southern Pacific.

[2] On February 26, 1876.

[3] A census taken in 1874, by city authorities, gave the city a population of 14,197.

[4] "History of Denver," 1880, p. 227.

During the three years ending December 31, 1873, 2,145 buildings were constructed in the city at a cost of $5,100,600. By the year of statehood, the city boasted eight banks, four weekly and four daily newspapers, five grade school buildings, a high school,[1] four academies, twenty-five churches, and fifty hotels. But more important than all this, the city as a unit, and its every inhabitant, was engrossed in the virgin industrial opportunities for wealth getting that crowded in from every quarter. In this spirit all municipal activities, legislative or administrative, were engulfed. The action of the city council in extending to the American people the privilege of transferring the capital of the nation from Washington to Denver[2] is characteristic of the bold optimism that enfolded every activity of Denver and her citizens.

## THE CITY GOVERNMENT.

Four territorial legislatures held sessions during this period[3] and all of them, save the legislature of 1870, passed special acts relating to the government of Denver. Charter amendments were adopted by the legislatures of 1872[4] and

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[1] Denver's first high school was established in District Number One in 1874.

[2] Published in the *Daily Colorado Tribune* of March 18, 1870. The resolution follows: "Whereas the time has arrived when the growth and expansion of the American people in their geographical area, population and power have obtained continental dimensions, and render necessary the permanent and equitable location of the federal government. Therefore

"Resolved, by the council of the city of Denver, that we desire and recommend that the present federal district be forthwith vacated, and the same be fixed at the geographical center.

"2. That such geographical center is the junction of the Republican and Smoky Hill rivers at a latitude 39° North; longitude 20° West of Washington, and 97° West of Greenwich.

"3. That if it shall be acceptable to the American people to do so, we invite them to select the city of Denver for such permanent location of the federal capital and government."

[3] After 1868 the legislatures met biennially.

[4] Laws, 1872, p. 190.

1876,[1] while the legislature of 1874[2] adopted a thoroughly revised charter. Save for a period around 1874, when the national political movements and local factions[3] in the Republican party combined to give success to the Democrats, the Territory and the city were predominantly Republican. Arapahoe county constituted one district for the election of members to both the upper and the lower house, and was allowed two of the thirteen councillors and four of the twenty-six representatives. With such a large proportion of the members of the legislature, and with the same party dominant in both city and Territory, Denver could get what legislation she wanted.

Under the regime of enumerated powers, the city's ever recurring need was for some new power to meet some new municipal problem. Thus it went before the legislatures of this period to secure the powers needed to cope with the Cherry Creek problem. It first asked and secured the right to condemn the channel,[4] then to condemn a channel 200 feet in width,[5] and then the same power over the South Platte as over Cherry Creek. So long as the city's future was wholly problematical, streets had been laid out and properties erected thereon with little or no attention to street grades, but now that the population was larger, and its future growth a certainty, street grades had to be established. Hence power was asked for and obtained,[6] whereby the council could appoint a board of three competent engineers to establish street grades, with the proviso that these grades, when adopted by the council, could not be changed, save upon petition of the owners of a majority of the frontage, supported by the approval of two thirds of the aldermen.

[1] Laws, 1876, pp. 157 and 169.

[2] Laws, 1874, p. 255.

[3] A contest between Hunt and Chaffee for Territorial delegate

[4] Laws, 1872, p. 207.

[5] Laws, 1874, p. 290.

[6] Laws, 1874, p. 277.

In securing charter amendments, individuals as well as city officials busied themselves with the legislature. Charges had been made[1] that the council was annexing land to the city without the owners' consent, solely with the view of securing additional taxes. For this reason the charter of 1874 took from the council all power to make, approve, or disapprove city additions, vesting this power solely in the discretion of the property owner. This left the city's rights unguarded, hence the succeeding legislature compromised by making the assent of both the city and the property owner essential for valid additions to the city's boundaries.

As the city's population grew, larger powers over nuisances and public health became essential. The first legislation[2] merely added to the list of enumerated nuisances that the city could abolish. In the last year of the period[3] the police powers of the city were made sufficiently extensive by a blanket grant to the council of power "to pass any ordinance for the peace, good order, health, safety, and general welfare of the city." This year, too, saw the creation[4] of a Territorial Board of Health, made a State Board by the first state legislature;[5] and thus, to a limited extent, the power of the state was brought to the aid of the health authorities of the city. The charter of 1874 made obligatory the return of mortality statistics.[6] A long step toward better protection of the public health was taken in the year 1875 when work was begun[7] on a sewer system. While the system proved inadequate in times of heavy rainfall, and unsuccessful suits[1] were brought to make the city pay for property flooded because of this inadequacy, the courts holding that, while the city could be compelled to keep existing systems up to their full capacity, it could not be held for the inadequate size of the sewer canals, yet the system, on the whole, was of great value to the public health.

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[1] Brown vs. Denver, 3 Colo., 169.

[2] Laws, 1874, p. 255.

[3] Laws, 1876, p. 169.

[4] Laws, 1876, p. 33.

[5] G. L., 1877, p. 106.

[6] It also gave to the council power to create an account, to which not over $3,000 could be appropriated yearly, to pay the expense of "funerals and official visitors," an account that proved most valuable in later years when political parties controlled the city machinery, as into it was thrown many a bill whose payment could not readily be accredited to other accounts.

[7] Smiley, p. 648.

This is the only period in the history of the city when no state legislation was passed looking toward state control of the city's vice. The charters granted no power to the city to license gambling houses and houses of ill fame but they did grant power to prohibit them. The council licensed them, however, under ordinances[2] nominally prohibiting them. They were prohibited, but the penalties for violating the prohibitions were small fines only, ranging from $10 to $100 for gambling, and $5 to $100 for prostitution. These fines were collected in lieu of licenses. In effect, therefore, the charter provisions forbidding the licensing of such places were successfully thwarted.

The license for retail saloons, the charter permitted the licensing of saloons, was raised to $200.[3]

The city's receipts in 1871 exceeded its expenditures by over $3,000,[4] but multiplied municipal activities meant multiplied municipal expenditures and hence succeeding legislatures were called upon to extend the city's income sources. In 1872, by a special act,[5] the council was authorized to create a special improvement fund for street improvements, placing therein the taxes derived by not over a two mill levy, but this was repealed[1] after four years of experience under it. The chief enlargement of the powers of the city, as to income, was the extension of its debt-making power. In 1872,[2] a debt of $300,000, with interest at not over eight per cent., was permitted, when ratified by a two-thirds vote of the city electorate, the debt to be used only in erecting public buildings and in supplying the city with water. No action was taken under this clause. Therefore, the charter of 1874 lowered the maximum debt to $200,000, with no maximum as to interest, the debt to be used in constructing public buildings, water, irrigation, and sewer systems, and required that the debt be ratified by a two-thirds vote of such voters as were "actual owners of taxable property." A further extension of this debt limit was provided for by a clause[3] empowering the council to borrow money, to an amount not to exceed $50,000, to defray the "current expenses of the city." To remove the fears that a city debt would raise taxes too much (the levy had usually been around seven mills), the maximum tax levy was fixed, first at eleven,[4] then at ten[5] mills.

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[1] 2 Colo., 669, and 4 Colo., 25. Suits were brought to compel the city to pay for property damaged by water due to flooded stores, etc., the owners contending that if the sewers had been built larger, such flooding would have been impossible.

[2] Revised Ordinances of 1878, pp. 80–82.

[3] Revised Ordinances of 1878, p. 205.

[4] City receipts for 1871 were $50,245 and expenditures $47,079.89, leaving a balance of $3,165.11. Smiley, p. 638.

[5] Laws, 1872, p. 195.

Special legislation in the interests of Denver was by no means confined to affairs strictly municipal.[6] One act[7] provided for county support of the city's poor, with city control, by making the chairman of the county commissioners of Arapahoe county the ex officio superintendent of the poor in case he was a resident of Denver, but, if he was not a

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[1] By the charter of 1876.

[2] Laws, 1872, p. 190.

[3] In the same charter.

[4] By charter of 1874.

[5] By amendments of 1876.

[6] Nor was it confined to Denver. The charters of Black Hawk, Central and Georgetown were thrice amended, and one other special act was passed as to Black Hawk and three as to Central. Special acts were also passed as to cities incorporated under the general law, such as Pueblo, Boulder, Golden, Trinidad, Montezuma and Idaho Springs.

[7] Laws, 1874, p. 159.

Denver resident then the superintendency was to vest in the county commissioner that was a resident of the city.[1] Until 1874, the public schools of the city were organized under the general school laws.[2] With the rapid increase in population, parts of several school districts had been included within the city's limits, thus leading to a vexatious decentralization of school administration. This defect was remedied by a special law[3] amalgamating the city into one school district, District Number One, and placing its school affairs under the supervision of a board of six directors, elected for three year terms, two retiring annually.[4] This board was given complete autonomy as to tax levy[5] and certification of teachers, and was authorized to elect, at such compensation as it chose, a citizen of Denver, to serve as superintendent of schools and to exercise full control over the issuing and annulling of certificates for all the city teachers.

Denver's position of pre-eminence in the Territorial Legislatures thus gave to her such added powers and special legislation as she chose. Her growth in population, with its resultant multiplicity in municipal activities, necessitated changes in the structural plan of her city government. Increased municipal functions required a better administrative machinery. Improvement in the city's administrative machinery took the form of centralizing greater administrative powers and responsibilities in the hands of the mayor.

Practice preceded legislation, there being a gradual evolution of greater power in the mayor's office before there was any change in legislation. The mayor that served in the year 1872–1873[1] was particularly active in advancing constructive municipal policies. He reorganized the police department, strengthened the volunteer fire department, corrected street grades, and encouraged sidewalks and parks. The charter of 1874 gave recognition to this increased influence of the mayor by making the office biennial,[2] that the mayor might have more time to become versed in the city's business. It was evidently the intention of this charter that the mayor's prestige in administration should be held in check by diminishing his legislative power, as it took from him his right to vote, save in case of tie. His administrative powers were increased primarily through vesting in him the admininstration of the police department, with power to appoint (subject to the confirmation of the council, unfortunately), the chief of police, the policemen, and the jailer, and power to release prisoners confined in the city jail by the police justice. Not even in the police department, however, and to an even smaller extent in other departments, was the supervisory power of the council relinquished. The council confirmed the mayor's appointments and could remove his appointees. Over the mayor and chief of police was an advisory board, composed of these two officials and the three members of the council's standing committee on police. It passed upon emergency questions and issued police regulations. That is, the tendency to vest power with the mayor was, at first, only a delegation to him of numerous duties that the aldermen could not be expected to perform. To reimburse him for his larger share of administration, the council allowed him a salary of $1,800.[3] The succeeding charter,[4] however, revested him with legislative influence, and gave added recognition of his predominance in affairs administrative. He was empowered to prepare for the consideration of the council, a provisional budget, and was given a suspensive veto over every ordinance, and over every resolution appropriating over $300. The prestige of the council was proportionally diminished as the mayor's prestige increased.

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[1] In 1872 the Colorado Society for the Prevention of Cruelty to Animals secured a state law enjoining "the police of the city of Denver to render every needed assistance to the agents of the society." Laws, 1872, p. 126.

[2] Under these laws $75,000 in bonds was voted in 1872 and the Arapahoe school building was at once erected at a total cost of $79,205.47, the first property owned by Denver schools.

[3] Laws, 1874, p. 234.

[4] As amended by Laws, 1876, p. 757.

[5] It determined the tax levy, which could not exceed three mills for current expenses, and certified its levy to the county commissioners, who thereupon enrolled it for collection.

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[1] Mayor Joseph E. Bates. April 1, 1872, to April 1, 1873.

[2] Up to this time but three mayors had been re-elected, all the others having served for but one year.

[3] Ordinances, 1878, p. 194.

[4] Charter of 1876.

Distrust in the council found concrete expression in a charter provision that the treasurer should be elected, instead of being appointed by the council, and made entirely independent of the council, save when guilty of "nonfeasance or malfeasance in official duties," when it might remove him. The county treasurer and county assessor were made ex officio city collector and city assessor,[1] offices theretofore filled by the council, the council being left only the duty of allowing them "reasonable allowance" for their extra work. The council still retained, save in the police department, power to appoint all the city officials, and, including the police department, power to regulate their duties, tenure, and compensation. The charter of 1874 specifically enjoined upon the council the duty of administering the fire department, through an administrative head to be known as the chief engineer, and to supervise and control all property belonging to the fire department. The creation of the office of chief engineer itself revealed the inclination of the council to delegate its administrative duties. As the board of health was made to consist of the mayor, city physician, and the council committee on health, the council's power was ultimate, but delegated. That the council still possessed large administrative and legislative powers and influence is shown by the long list of city offices that it created, filled, and fixed the compensation for. The list included[2] a city attorney, at a salary of $1,200; a police justice,[3] at $900; a chief of police, at $1,200; a chief and an assistant chief engineer, at $500 and $300, respectively; city engineer, $900; city physician;[1] city sexton, city ashman, city scavenger, city printer, city jailer, city weighers, and street supervisor. Through its standing committees, administering, respectively, the various departments of finance; streets, alleys and bridges; licenses; health; police; fire; public grounds and buildings; water; Cherry Creek; gas and gas lamps; drains and sewers; and the judiciary,[2] thirteen in all, the council continued to administer and supervise all the city's activities, but its powers were tending to become nominal rather than actual.

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[1] By charter of 1874.

[2] See Ordinances of 1878.

[3] In lieu of the two police justices of the former period. From 1874 to 1876 the old title of police magistrate was revived despite the declaration of the Supreme Court that it was unconstitutional. 1 Colo., 323.

In 1873 the number of aldermen was increased from eight to twelve by creating two new wards in the city. There was no remuneration to the aldermen until the last year of the period, when $250 each, per annum, was granted.[3] The larger number; the smaller remuneration; annual terms; the fact that nine votes out of the twelve were necessary to overcome the mayor's veto; the demand for a single constructive policy; and the necessity for better administration, combined to cause the council's position relatively to decline and the mayor's influence relatively to increase. Without the intervention of the political party, which followed in the next period, Denver would speedily have come to the mayor form of government.

## PUBLIC SERVICE CORPORATIONS.

The industrial growth and outlook of the city and the optimism engendered thereby had their chief fruitage in the organization of public utility services. The city and all its citizens were anxious to secure such services and, to secure them, were ready to barter away both present and future rights of control, regulation, and remuneration.

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[1] First created in 1876. Compensation indefinite. The office of city engineer was the old office of city surveyor. This and the office of scavenger first created in 1878.

[2] Ordinances, 1878, pp. 52-4.

[3] Charter, 1876, and Ordinances, 1878, p. 194.

It was Colonel James Archer of St. Louis, the man who had come to the city in 1867 to tempt the city to pay $2,000,000 in bonds to secure the immediate completion of the Kansas Pacific, that organized the first gas company actually to furnish gas to the denizens of the city. This was the Denver Gas Company. On November 15, 1869,[1] the city entered into certain "Articles of Agreement" with Colonel Archer whereby his company was granted for fifty years, dating from January 1, 1870, "the sole and exclusive privilege and right" to erect the buildings and works "necessary to the manufacture and distribution of illuminating gas"; the sole and exclusive privilege and right "to lay pipe under and along all and any of the streets of the city of Denver, for the purpose of distributing said gas throughout said city, . . . and to have all rights and privileges . . . necessary to the proper and successful prosecution of the business of making, distributing and selling illuminating gas in the said city . . ., it being understood, however, that the manufacture of gas by any person on his own premises, and for his private use, is in no manner prohibited by this agreement." To the gas company, that is, an exclusive franchise was given, not only to sell, but to make gas within the the city's limits.

And what did the gas company give for this exclusive right to capitalize for fifty years the needs of a rapidly growing city, the center of a vast region certain of its minerals and harvests? What remuneration to the city? What assurances of proper extensions? And what powers did the city reserve to itself to regulate the rates and services of the company? No remuneration was demanded, and, of course, none was offered; no provisions were inserted as to extensions; no reservations as to future control of rates or services were asked for and none were made. The company merely agreed to "commence actual operations . . . for the construction of the necessary works" within four months after the agreement was to go into effect;[1] to "have one mile or more of distributing pipe laid" and to be ready to furnish gas along this line by January 5, 1871; to observe the ordinances as to the manner of laying pipes and of making excavations; and to be responsible for any damage due to the negligence of the company. It further agreed that it would "at all times furnish a full and sufficient supply to meet the demands thereof of said illuminating gas, and of a good average quality, unless prevented by accident or other cause beyond its control; in which event said obstacle shall be removed and overcome without unnecessary delay; that said company will not charge the said city or any persons for said gas a price exceeding five dollars per thousand cubic feet," the maximum price offered by the many preceding companies. And that the company would keep its part of the agreement, it filed a penal bond in the sum of $25,000. In essence, that is, the company had for half a century the monopoly on gas in a promising city; the city had bartered away all control over that monopoly; and all for the sake of booming a village.

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[1] Ordinances, 1878, p. 208.

Pipe laying was begun on September 20, 1870,[2] and gas was offered on January 21 of the next year, at the maximum price above mentioned. A month[3] before the gas service was ready, the council gave the company a five year contract for lighting the city's streets. The city was to furnish and erect the lamps, the company was to keep them in good repair and service. "The quantity of gas to be furnished, and the time and number of hours the same shall be kept burning," read the contract, "shall be regulated by and be the same as the quantity, time and hours from the setting of the sun as are adopted and in use for lighting the streets of the city of St. Louis"—rather difficult of enforcement, it must be said. For each and every lamp so lighted the city of Denver was to pay fifty-five dollars per annum. The gas company certainly could not complain of want of encouragement on the part of the city.

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[1] January 1, 1870.

[2] Smiley, p. 455.

[3] December 16, 1870. Ordinances, 1878, p. 207.

This same Colonel Archer also organized a water company and, after offering certain inducements, obtained a like monopoly for its services. On October 30, 1870, he organized the Denver City Water Company, with himself as President, David H. Moffat as treasurer, and, as one of the Directors, Jerome B. Chaffee, a prominent Republican, liberal in the support of his party, and, as was Moffat, an officer of the First National Bank. Other of the directors were Walter S. Cheesman, likewise a bank official and politician, and Edward M. McCook, then, and later, Territorial Governor of Colorado.[1] The system to be used was the Holly direct steam pressure system, with a capacity of 2,500,000 gallons daily. The company was capitalized at $250,000. Construction work was well under way by midsummer of 1871, and on January 10, 1872, the company began supplying water. In the meantime, the company had made a contract with the city whereby the company was allowed to dig upon the city's streets,[2] and water was furnished for city hydrants. Just what this contract was does not appear, save that the company was to get $150 per annum for each city hydrant, but at that time neither the city nor the legislature had power to grant franchises to water companies. Such power was first granted to the incorporated cities of the Territory on January 22, 1872, by an amendment to the corporation statutes,[3] authorizing the incorporation of water companies under the ~~general law, and~~ empowering incorporated cities to grant them the right of way in their streets.[4]

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[1] R. R. McCormick was Secretary; the remaining directors were Wilson Waddingham, E. F. Hallack, F. Z. Solomon, and Daniel Witter.

[2] Smiley, p. 455.

[3] Laws, 1872, p. 67.

[4] The only delegated power that Denver had before this was the power "to provide the city with water," enumerated to it in 1866, and the power granted to it in 1872, and repeated in the charter of 1874, to go into debt for that purpose.

The charter of 1874 granted to the city power to "own water works of any description."

The situation now was quite clear. The city had power to grant or deny a franchise; it had the power to build its own water system, if the terms of the company were not satisfactory; there was considerable demand for municipal ownership. Under such circumstances the way was opened for a fair contract with the company. The company saw the situation and saw the necessity of securing a more valid franchise, and on May 9, 1874, after wining and feasting the council, obtained from it[1] a franchise granting to the company "the sole and exclusive right to lay pipes for the distribution of water within the city's limits . . . for the period of seventeen years from the date of this agreement." For this monopoly, however, far better terms were secured then were granted by the gas company. The company agreed "to lay each and every year during the continuation of this agreement, . . . one and a half miles of main distributing pipes[2] . . . and to supply the same with water" and "to furnish water to the occupants of houses and to other persons along the line of water pipes, for domestic use and other purposes, at rates not to exceed those charged by the City of St. Louis," the company to furnish "as good a quality of water . . . as it has heretofore done and is now doing." Moreover, the company agreed that the city should have the right to purchase the plant at the expiration of five, ten, or seventeen years, at the valuation determined upon "by five disinterested appraisers," two of whom were to be appointed by the city, and two by the company, these four to choose the fifth. This franchise annulled all former contracts. For this monopoly no remuneration was asked. In this contract, the city agreed to pay $20,000 a year through the full term for the use of water from city hydrants. There was no provision in the franchise for extensions other than the one given; no provision for future regulation of rates, save as St. Louis conditions might regulate them; no provisions adequate to ensure unpolluted water, a grave omission as the water was pumped from within the city's limits. The company at once increased its capacity 2,000,000 gallons daily.[1]

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[1] Ordinances, 1878, p. 210. See Hall, II; 114.

[2] Not under five inches in diameter.

The franchise of the Denver City Horse Railroad Company, granted by the Territorial Legislature, has already been described. It was sold in 1871 to L. C. Ellsworth of Chicago, who began construction at once, and on December 17 of that year the first car was run. Five miles of track were added before the end of this period. In 1872, by special act,[2] the legislature sanctioned the rechristening of the company as "The Denver City Railway Company." That the legislature would jealously guard the rights of its creature is shown by the tenor of a clause in the charter of 1874 which empowered the city "To regulate the running of horse railway cars, or cars propelled by dummy engines, the laying down of tracks for the same, the transportation of passengers thereon, and the form of rail to be used. *Provided*, That no ordinance shall be passed conflicting with any rights vested in the Denver City Railway Company by their charter."

The city's organic law first gave to the city in 1874[3] the right "to regulate and prohibit the use of locomotive engines, and require railroad cars to be propelled by other power than steam, to direct and control the location of railroad tracks, and to require railroad companies to construct, at their own expense, such bridges, tunnels, or other conveniences at public railroad crossings, and to regulate the rates of speed of all railroad trains." The ordinances reveal no activity under these powers, however, save that the railroads were all freely granted rights of way over the streets.[1] A general ordinance[2] was passed, allowing the operation of "dummy railroads," but it seems that none were put into operation.

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[1] In 1875 the city purchased the Platte Water Ditch for irrigation purposes for $60,000 in 20 year ten per cent. bonds. The proposition was adopted by the electorate on May 19, 1875, after having been once defeated and the Ditch became the property of the city on March 25.

[2] Laws, 1872, p. 221.

[3] Laws, 1874, p. 269.

Until 1874, then, there was no attempt to put any limit whatsoever upon grants of franchises or special privileges. In that year, due to the general demand for the regulation of railroads and corporations that preceded and followed the panic of 1873, a movement that was imposed upon Denver from the outside, one franchise was granted that made somewhat reasonable reservations as to future rights of the city as a unit. The use of judgment in issuing franchises and in the framing of charter provisions soon passed, however, and had no staying effect upon the franchise grants of the succeeding period.

### THE CONSTITUTION AND ITS MUNICIPAL PROVISIONS.

No sooner was Colorado created a Territory than a movement, centering in Denver, was started to convert the Territory into a state. Certain phases of this movement for statehood are so vital to the history of the government of Denver, inasmuch as they clearly reveal the close relation between the government of the city and the government of the state, that they must be noted here.

Delegate Bennet made an unsuccessful attempt in 1863 to get Congress to pass an enabling act; but he succeeded in getting such an act passed and approved on March 21 of the next year. He was aided in this by the Governor of the Territory, John Evans, of railroad fame, and by a Joint Resolution of the legislature,[3] the Speaker of the Lower House of which was Jerome B. Chaffee of Denver. Upon the passage of the act, Governor Evans called an election, to be held the first Monday in June, for a constitutional convention. This convention met on July 4, framed a constitution in eight days, and submitted it to the approval of the electorate at an election held on August 2. At this election, the constitution was defeated[1] by a vote of 5,006 to 4,219.[2] The mining camps, and the outlying agricultural districts, especially those of the southern part of the state, did not care for the added expense of a state government. In June of the next year, under the leadership of Jerome B. Chaffee, the agitation was renewed and a second constitutional convention was called,[3] through joint action of the political parties of the Territory, to frame another constitution under the old enabling act. This convention met on August 8, framed a constitution, and submitted it to the people on the first Tuesday of September. At this election it was adopted by the light vote of 3,025 to 2,870,[4] though not without broad hints that the majority was obtained through manipulation of returns.[5] A legislature was elected to represent the state so created. This legislature chose as United States Senators John Evans and Jerome B. Chaffee, both of Denver. These men proceeded to Washington to urge the admission of the state. Congress, then in the midst of its struggle with Johnson, twice passed measures admitting the state into the Union, but Johnson vetoed both bills, and Congress did not succeed in passing them over his veto. Not until the party struggle of 1876, did Colorado again find a political situation favorable to admission.

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[1] Ordinances, 1878, pp. 197–203.

[2] Ibid., p. 200.

[3] Laws, 1864, p. 260.

From 1870 to 1874, Jerome B. Chaffee, as regularly elected delegate to Congress, urged that body to pass a statehood bill for Colorado. He was not successful until December of 1873, when, joining forces with Stephen B. Elkins of New

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[1] Hall describes the election proceedings as "tempestuous, acrimonious, and unscrupulous." Hall, I; 310.

[2] Smiley, p. 494.

[3] On July 19.

[4] Smiley, p. 495.

[5] Hall, I; 367.

Mexico, like Chaffee a man of wealth and social influence, he succeeded in getting an enabling act past the House and forwarded to the Senate, and there it peacefully slumbered in a Senate committee until the arrival of delegate Patterson in 1875. In the national reaction against the Republican party in the fall of 1874, T. M. Patterson, a Democrat, and city attorney for Denver, was elected to replace Chaffee as Territorial Delegate. Though Patterson's term did not begin until March 4, he hastened on to Washington and joined forces with Chaffee to secure the passage of an enabling act. The political situation was most propitious for such joint effort. The House was Democratic, as was Patterson, and the Senate was Republican, as was Chaffee, and a new state, as proved to be the case, would probably determine the next presidential election. The problem of the Colorado delegates was, therefore, a simple one: Chaffee had but to convince the Senate that the state would go Republican and Patterson had but to convince the House that the state would, without doubt, go Democratic. Both succeeded; an enabling act was passed; on March 3, 1875, the president approved it.

The state constitutional convention met in Denver on December 20 of that year and completed its work on March 14 of the year following. The constitution was adopted on July 1 by a vote of 15,430 to 4,053, carrying in Denver by the practically unanimous vote of 5,591 to 37.[1] The president's proclamation ushered the state into the Union on August 1, 1876.

In the constitutional convention, Arapahoe county, a synonym for Denver, had six of the thirty-nine delegates, three to six times as many as any other county save Las Animas and twice as many as Las Animas. Twenty-four of the thirty-nine delegates were Republicans and the Republicans organized the convention. As the Arapahoe delegates were all Republicans, this meant that Denver had the dominant voting strength, twenty-five per cent. of the majority, and, since twenty votes could adopt a measure, had nearly one third of the votes necessary to pass any provision it pleased. When to this actual voting strength is added Denver's pre-eminent political influence, which amounted to domination of the Republican party, it will be clearly seen that Denver secured from the convention all the measures that she wanted. Some member of the Arapahoe delegation was put upon every committee of any significance whatever,[1] and some one of the delegation was chairman of the committees that had to do with Denver's interests.[2] The mayor and the council of Denver, who had looked well to the ornamentation of the convention hall and to the comfort of the members, were granted the privilege of the convention floor[3] along with the Territorial officers and the judges of the supreme court, the only others to whom the privilege was vouchsafed.

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[1] Smiley, p. 498.

Those provisions of the constitution that have to do with corporations, and especially those that have been vital to the public service corporations of Denver, must first be noted. It must be remembered that Colorado's constitutional convention did its work at the very time when Granger legislation and anti-corporation activity was fairly rampant in all the states of the East. The convention's Address to the People referred to "the grasping and monopolizing tendencies of railroads and other corporations," but the convention's anti-corporation activity largely ended with such talk. Colorado was too deeply in need of capital to put into its organic law any provision actually aversive to capital. Ex-Governor Evans sent to the convention a communication[4] "praying that protection be given to railroad investments." In answer to the anti-corporation demands of the times, a few provisions preventing corporation abuses were inserted into the constitution, but all were so worded as to safe-guard past investments and not to be essentially inimical to capitalistic interests.

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[1] Upon every committee save the committees on Military Affairs, Federal Relations, Impeachment, and Enrolling and Engrossing. Proceedings of the Constitutional Convention, p. 36 et seq.

[2] Proceedings of the Constitutional Convention, p. 36 et seq.

[3] Ibid., p. 19.

[4] Proceedings of the Constitutional Convention, p. 153.

The General Assembly was enjoined to "provide by general laws for the organization of corporations hereinafter to be created" and was forbidden to pass special laws amending, extending or granting private charters of incorporation,[1] thus preventing a repetition of the abuses of earlier Territorial enactments. The Assembly was denied power to pass any "law for the benefit of any railroad or other corporation . . . retrospective in its operation."[2] The consent of municipalities was made necessary for the use of its streets by street railway companies,[3] and, most important of all, perpetual franchises were prohibited.[4] Other ineffectual though seemingly trenchant provisions were inserted, such as that the Assembly could at any time "revoke or annul any charter of incorporation" when the public weal demanded it, provided that they did so in a way that would do "*no injustice . . . to the incorporators.*" All special and private charters or franchises theretofore granted "under which the incorporators . . . shall not have organized and commenced business in good faith at the time of the adoption of this constitution," were annulled and revoked.

The Assembly was empowered to delegate to municipalities the right to levy taxes for their own purposes, but was denied power to impose such taxes itself.[5] The constitution contained a list[6] of the properties, municipal and public, that were to be exempt from taxation, and to this list municipalities were forbidden to add,[1] as the Denver council had once done under the statutes. Corporations and corporate property could not be exempted from taxation by any governmental agency.[2] The constitution embodied the principles[3] by which private property could be taken for public purposes, principles that the legislature could not dispense with,[4] and hence Denver's charters, from now on, no longer contain clauses relating to this purpose. The Denver council petitioned the convention[5] to authorize special assessments for street and sidewalk improvements. No specific clause to this effect was inserted in the constitution but the general reading was such as to make such assessments valid.[6] "To protect the people" from "the oppression consequent upon the voting of bonds and other kinds of indebtedness to corporations"[7]—the abuses of public bond issues had been numerous[8]—all aid, whether by bond issues or pledge of credit, whether by the state, municipality or other political subdivision thereof, was expressly prohibited.[9] The power of municipalities to incur debts was closely hedged about. The maximum debt permissible, debts contracted for water supply only being excluded,[10] was fixed at three per cent.[11] of the assessed valuation of the taxable property within the municipality's limits. The courts interpreted this limitation to include all debts, implied or expressed, irrespective of their form.[1] These debts, to be valid, had to be approved by the tax-paying electorate, and, once incurred, were irrevocable,[2] it being made the mandatory duty of the council to provide such a levy, not exceeding twelve mills, as would pay the interest and extinguish the principal in not less than ten nor more than fifteen years. Private property could not be taken for the payment of municipal debts.[3]

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[1] "Except for such municipal, charitable, educational, penal or reformatory corporations as are or may be under the control of the state." Art. XV; sec. 2.

[2] Art. XV; 12.

[3] Art. XV; 11.

[4] Art. II; 11.

[5] Art. X; 7.

[6] Art. X; 3, 4 and 5; XVIII; 7.

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[1] 7 Colo., 467.

[2] Art. X; 9 and 10.

[3] Art. II; 14 and 15.

[4] 9 Colo., 190.

[5] Proceedings, p. 138.

[6] 6 Colo., 106; 30 Pa. Rep., 104; 10 Colo., 112.

[7] Convention's Address, p. 723.

[8] See 2 Colo., 338; 5 Colo., 192. Arapahoe County had voted $500,000 in bonds for the Denver Pacific and Telegraph Company, and $300,000 to the Denver South Park and Pacific. In 1879 the county sold these $800,000 in bonds for $250,000.

[9] Art. XI; 1, 2, and 9.

[10] Art. X; 14.

[11] Art. XI; 8.

As to officers of municipalities, the constitution provided[4] that, "unless removed according to law," they should continue in office until their successors were "duly qualified," and should, while in office, give their "personal attention" to their duties. The maximum term for municipal officials was fixed at two years.[5] The mayor and council of Denver memorialized the convention "to so frame the constitution . . . that the legislature of the future state can give authority to the city to create one or more police courts." Hence it is that the constitution contains the provision that "The General Assembly shall have power to provide for creating such Police Magistrates for cities and towns as may be deemed necessary or expedient," such magistrates to "have jurisdiction of all cases arising under the ordinances of such cities and towns."[6] The Assembly was also empowered to create "a criminal court in each county having a population exceeding 15,000."[7]

"The evils of local and special legislation being enormous," read the convention's Address to the People,[8] "especial effort was made to restrict the powers of the Legislative Department" in this respect. The constitution specifically prohibited the Assembly from passing "local or special laws," in a number of "enumerated cases," chief of which, from Denver's point of view, were those pertaining to highways, justices of the peace, constables, police magistrates, railroad tracks, common schools, ferries, and toll bridges. "In all other cases," continued the constitution,[1] "where a general law can be made applicable, no special law shall be enacted. The General Assembly, moreover, was specifically inhibited, because of the current titanic corruption in the building of the City Hall in Philadelphia by a state commission, power to "delegate to any special commission, private corporation, or association, any power to make, supervise, or interfere with any municipal improvement, money, property, or effects, whether held in trust or otherwise, or to levy taxes, or perform any municipal function whatever."[2] And finally the Assembly was enjoined "to provide by general laws, for the organization and classification of cities and towns," the number of classes not to exceed four, and the laws for each class to be uniform.[3] The legislature was ordered to pass a law by which the cities[4] then operating under special charters might elect to become subject to the general law for cities of their respective populations, but the schedule to the constitution specifically provided[5] that all such cities should continue subject to special legislation, until, by their own motion, they chose to become subject to general legislation. None of them have ever made the change. While the evils of such special legislation were great, the evils incident to the difficulties of securing legislation adapted to local needs, when but one of many cities in a class, were greater. Denver preferred to be subject to special legislation until, by constitutional amendment, she secured home rule.

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[1] 8 Colo., 485; 9 Colo., 80 and 404.

[2] Art. V; 38.

[3] Art. X; 14.

[4] Art. XII; 1 and 2.

[5] Art. XIV; 2.

[6] Art. VI; 26; 7 Colo., 475.

[7] Interpreted, 5 Colo., 509.

[8] Proceedings, p. 723.

The constitution adopted, the provisions above discussed became the fundamental basis for government activities in Denver.

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[1] Art. V; 25.

[2] Art. V; 35. An exact reproduction of a clause inserted in the Pennsylvania constitution of 1873.

[3] Art. XIV; 13.

[4] Denver, Black Hawk, Central, and Georgetown.

[5] Proceedings, p. 703.

# CHAPTER IV.

## 1877–1892.

## PARTY DOMINANCE AND STATE BOARDS.

### THE SOCIAL AND INDUSTRIAL BACKGROUND.

The mines of Colorado were especially productive during this period. The heaviest yields came from the newly developed Leadville District. From 1860 to 1877, the total mineral output of the whole county in which Leadville is situated, Lake County, was but $7,298,330.[1] In the year last mentioned the richest of ores were uncovered and the ore-output of Leadville alone for the five years from 1878 to 1882[2] inclusive was valued at $56,945,117. Thousands rushed into Leadville, most of them going by way of Denver, much to Denver's profit. It was during this period that the wealth of the Gunnison and Aspen Districts was unfolded. The coin value of the state's silver output doubled in 1878[3] and increased six fold from 1877[4] to 1892, amounting, in the latter year, to $37,017,993, making Colorado the leading silver producing state of the Union. This increase in the silver output was of great political moment in that it emphasized the value to the state of free coinage of silver. The state legislature resolved in favor of free coinage,[5] and the city was the seat of two free silver conventions[6] which

[1] From placers and gulches.

[2] State Geologist's Report for 1881–2, p. 62.

[3] Increased from $6,041,807.81 in 1877 to $12,068,930.27 in 1878. From U. S. Mint Statistics.

[4] $3,726,379.33.

[5] In 1885.

[6] Held in January, 1885, and in 1889.

demanded free coinage. The way was thus prepared by which the state, naturally Republican, joined the ranks of the Democratic party. The annual coin-value output of gold increased from $3,148,707.56 in 1877 to $5,539,021 in 1892. The annual output of the state in lead and copper averaged over $5,000,000.[1] In 1887, a typical year, the state's coal output was 1,971,735 tons, an increase of nine fold over the annual output of the preceding decade. In 1882 the oil fields of Fremont County were first commercialized. It is needless to enlarge upon the reaction upon Denver of the increased mineral output. The value of the ores treated by Denver's smelters alone was, in 1891, $24,411,705. From 1882 to 1884, a "National Mining and Industrial Exposition" was annually held in Denver to advertise the state's mineral resources. The most of the wealthy mine owners resided in Denver. As a result of this mining activity, transportation, manufacturing, business of all kinds was phenomenally increased.

There was likewise a phenomenal development in the farming interests of the state. The number of farms increased 159.3 per cent. from 1870 to 1880 and 263.7 per cent. from 1889 to 1890.[2] In 1899 there were 1,200 irrigating ditches in the state. Their total cost was $10,000,000. They aggregated 6,000 miles in length and irrigated 2,000,000 acres.[3] Denver and vicinity had 500 miles of these ditches. The value of the orchard products and of the live stock of the state increased rapidly. The number of cars of live stock shipped into Denver trebled from 1887 to 1892;[4] in 1884 the live stock in Arapahoe County alone was valued at $1,540,000. The wool clip for 1877 was 5,000,000 pounds.

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[1] $5,187,073.29 in 1886.

[2] 1,738 in 1870; 4,506 in 1880; 16,389 in 1890. From national census reports.

[3] Report of Denver's Chamber of Commerce for 1889.

[4] From 1,500 to 4,500 cars. Report of Chamber of Commerce, 1892, p. 42.

A sound foundation was thus given to the commercial life of Denver, the shipping and supply point for all these industries.

These interests were all protected and aided. Irrigation laws were passed and the policy of national aid to irrigation was conceived and urged upon Congress.[1] An oleomargarine law[2] was passed in the interests of the farmers and a State Bureau of Horticulture was created[3] to further the interests of the fruit growers. In 1886 an internal improvement fund was created for the improvement of the state's highways. In 1885[4] the office of State Forest Commissioner was created to guard and care for the forests on state lands. The succeeding Legislature asked Congress to grant to the state all timber lands above the altitude of 10,000 feet, that the forests thereon might "be preserved and perpetually maintained," asserting that "the public forests can be more efficiently maintained and protected by the machinery of State Government than by that of the General Government." Though state forests were protected, not until many years after this were national forests protected, and then by national, not state machinery. The stock growers' interests were guarded by both state and national legislation, the most important national aid[1] being the tariff on wool.

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[1] The Legislature of 1887 (Laws, 1887, p. 454), in lieu of a harbor or river appropriation besecched Congress to render aid in the construction of large state reservoirs and to order the collection (Laws, 1887, p. 461) of information pertaining to irrigation. In September of 1889, at the invitation of Denver's Chamber of Commerce, the national Senate Committee on Irrigation held its sessions in Denver. In 1891 (Laws, 1891, p. 417) the state legislature again memorialized Congress to grant aid to the state for irrigation purposes, the grant asked for being the income from the sale of all the national lands in the state, except mineral lands. This was the scheme recently adopted by the national government, save that the national government, itself, maintained control of the irrigation systems.

[2] Laws, 1885, p. 282.

[3] Laws, 1891, p. 27.

[4] Laws, 1885, p. 299.

The manufacturing output of the state increased rapidly. The long distance from eastern manufactures, the presence of plenteous power and raw material, the influx of skilled labor for reasons of health, combined to make manufactures flourish. The product of the manufacturing establishments of Denver, the leading manufacturing center of the state, increased ten fold from 1870 to 1880, and five fold from 1880 to 1890, as the following table[2] reveals:

| Year. | Number of Factories. | Employees. | Pay Roll. | Value of Product. |
|---|---|---|---|---|
| 1871 | — | — | — | $800,000 |
| 1880 | 259 | 2,944 | $1,574,438 | $9,367,749 |
| 1886 | 219 | 4,056 | 2,100,298 | 24,045,006[1] |
| 1889 | 573 | 10,059 | 7,095,852 | 34,499,223 |
| 1890 | 799 | 12,642 | 8,368,133 | 42,034,677 |

The value of manufactured products in all the state increased from $2,394,000 in 1872 to $42,480,205 in 1890.

The one force adverse to the development of manufactures was the unfavorable rates granted by the railroads to local manufacturers. The railroads were interested in keeping Colorado an importing state, in order to profit by the long haul, hence their rates discriminated in favor of trans-Missouri manufacturers. The Legislature of 1885 appointed a committee to investigate railroad rates, and, as a result of this investigation, created[3] the office of railroad commissioner.

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[1] The Legislature of 1885 (Laws, 1885, p. 404) asked Congress to restore the wool tariff of 1883. The Legislature of 1891 importuned Congress to pass the Paddock Pure Food bill in lieu of the Conger Lard bill because the latter was inimical to the cattle industry of the State.

[2] The statistics for 1880 and 1890 are from the national census reports, for 1886 and 1889, from Chamber of Commerce reports. The more important items in this output were: iron and brass foundries, $685,000; flouring mills ,$1,738,000; breweries, $938,000; wagon and carriage shops, $113,000; canneries, $35,000; clothing, $790,000; furniture, $195,000; $12,334,143 was in bullion produced by the smelters.

[3] Laws, 1885, p. 307.

But the railroad interests were, and have ever been, strong enough to prevent the creation of a railroad commission with real power. State inactivity was condoned by putting the blame upon the national interstate commerce laws. "There are business firms in this city," complained Denver's Chamber of Commerce early in 1892, "that pay as much as one million dollars per annum each in freights. . . . But for the unequal enforcement of certain provisions of the Interstate commerce law, which greatly militates against Denver as a distributing center, the volume of wholesale trade would speedily double."

A new source of income to Denver and Colorado came from an influx of tourists and health seekers. Colorado's splendid scenery and stimulating climate had long been the theme of its every resident and visitor, but the tourist trade awaited railroad communication, and the incoming health seekers awaited demonstration of the curative powers of the climate. In 1868, Denver's Board of Trade reported that the Denver climate was "exceedingly favourable to consumptives" and afforded "instantaneous relief and rapid and permanent cure" to those suffering from asthma and chronic bronchitis. In the next year, Bayard Taylor called nationwide attention to "Our Switzerland" as an ideal place "for health and rest and recreation." By 1874, reported a tourist,[1] Denver was looking "longingly every spring, to the season when the invalid, with his asthma, consumption, or general debility, shall turn hitherward." During the "eighties," countless books and magazine articles proclaimed Colorado's resources as a health and pleasure resort.[2] The state was soon flooded by health and pleasure seekers. This immigration has been of deep import to the state and particularly to Denver, for through these immigrants, Colorado's resources were heralded to all parts of the world and capitalists, and those in comfortable circumstances, in need of a change of climate, turned Coloradoward. But so did the poor and Denver was confronted with the problem of caring for the sick poor of all climes. Denver's Chamber of Commerce was soon assiduously endeavoring to stem the tide of poor health seekers. Denver, their reports declared, was the mecca of meccas for "*manufacturers and capitalists*,"[1] but offered no advantages for those needing "easy positions." Not to be overlooked is the stimulating effect of Denver's climate upon the strong as well as upon the sick. Men's efficiency as producers was and is always kept at the highest point. To this fact is to be accredited no little part of the spirit of push and enterprise that has characterized the city.

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[1] In "Summering in Colorado."

[2] The Legislature of 1889 appropriated $2,000 for the printing and circulation of a pamphlet setting forth the climate's advantages to consumptives. Laws, 1887, p. 293.

In the field of railroad construction, this period was by far the most productive one in all of Colorado's history. The railroad mileage of 1880, 1,570 miles, was tenfold that of 1870, and the mileage of 1890, 4,291 miles,[2] was nearly threefold that of 1880. As contrasted with preceding periods, however, the railroads of this period were interstate rather than local in plan and in construction.[3] To be sure, a few local roads were locally promoted, chief of which were the Denver and New Orleans, financed largely through D. H. Moffat; the Denver, Utah and Pacific, ironed to the Mitchell coal mines by 1883; The Denver, Lakewood and Golden; The Denver and Scranton; and The Colorado Eastern. But the greater proportion of railroad construction, by far, was either as extensions or as branches of the great interstate trunk lines. There were alliances, corporate and otherwise, not only between local and national railroad lines, but between railroad companies and local coal, iron, smelting, and similar companies. Of the half dozen incompleted and the seventeen completed roads, totaling 41 trains daily, that entered Denver by 1892, not over one or two could in any sense be called purely local.[1] The local railroad promoters of earlier days, especially the Evans-Moffat group, were giving ever a smaller part of their time and capital to the promotion of local railroads and more and more to the control of Denver's public utility interests.

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[1] Italics in the original.

[2] Of this mileage, 800 miles were constructed in 1887 alone.

[3] This fact the Legislature of 1887 recognized and memorialized the President to appoint as one member of the Interstate Commerce Commission "some competent person resident in the country west of the Missouri river and east of the Rocky Mountains."

The development and changes in the industries of the state and their effect upon Denver can best be summarized by statistics from state and national reports. The appended table[2] discloses that, save in the year of the Leadville excitement, more people were engaged in farming than in any other occupation, and that the number of farmers increased nearly threefold from 1880 to 1890. During the same decade the number of railway employes doubled and the number of employees in manufacturing establishments trebled. The census reports for Denver reveal that one-fifth of the city's working population was engaged in trade and transportation and two-fifths in manufacturing. The population of the state in 1880 was 194,327, an increase of 387.4 per cent. over the population of 1870; in 1890 it was 412,198, an increase over

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[1] In 1891 the state board of equalization was given power to assess all the property owned, used or controlled by railway, telegraph, telephone, and sleeping car companies. Laws, 1891, p. 290.

[2] Occupations in Colorado 1860 to 1900 (from U. S. census reports):

| Occupations. | 1860 | 1870 | 1880 | 1890 | 1900 |
|---|---|---|---|---|---|
| Miners | 22,086 | 2,200 | 28,970 | 20,067 | 28,347 |
| Laborers | 594 | 1,931 | 12,902 | 20,662 | 17,926 |
| Carpenters | 542 | 552 | 3,773 | 8,106 | 5,592 |
| Agriculturalists | 195 | 6,462 | 13,462 | 36,134 | 43,145 |
| Saloon keepers | 175 | 175 | 1,077 | 1,265 | 1,291 |
| Railroad employees | — | 962 | 3,364 | 7,921 | 8,027 |
| Saw mill employees | — | 143 | 407 | 534 | 711 |
| Wage earners in manufacturing | — | 876 | 5,074 | 15,016 | 24,725 |
| Street railway employees | — | — | — | 441 | 314 |

1880 of 112.12 per cent. Denver's population grew more than twice as rapidly as did the population of the state: from 38,644 in 1880, an increase of 456.9 per cent. over 1870, to 132,135 in 1890, an increase of 241.9 per cent. over 1880. The per cent. of the foreign born in the state was decreasing; in Denver it was increasing. The assessed valuation of the state, not over one-third its real value, increased from $44,130,205 in 1876 to $141,244,689 in 1887; the assessed valuation of the property in Denver increased from $16,194,091 in 1880 to $36,887,895 in 1887, and to $76,550,415 in 1893.[1] From one-fourth to one-third the assessed value of the property in the entire state was in Denver and its suburbs. The amount spent in building improvements in Denver in 1886 was $2,100,000; in 1888 it was $6,049,386. In 1890 alone 2,338 private dwellings were erected in the city. The real estate sales in Arapahoe county, ninety-five per cent. of which were in Denver, increased from $29,200,000 in 1887 to $40,300,000 in 1892, and totaled $284,470,000 for the six years. During the year 1887 the business done in the city increased 45 per cent.,[2] the output of manufactured goods, 13 per cent., bank clearings, 37 per cent., and railway freight receipts, 40 per cent. Splendid buildings were erected in the city; the Tabor Opera House in 1880, the Academy of Music in 1882, the Court House in 1883,[3] and a splendid state capitol building.[4] The movement was started[5] that resulted in the present substantial national mint building. And this stupendous growth continued unbroken throughout the entire period! Few indeed have been the cities that have grown as rapidly as Denver did during this period.

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[1] Other years: 1888, $41,643,935; 1889, $51,699,515; 1890, $66,624,560; 1891, $73,133,43[illegible]. The assessed valuation of Arapahoe County outside of Denver ranged around $10,000,000 only; in 1887, $10,149,679.

[2] The amount of business in 1886 was estimated at $56,500,000.

[3] Cost of building alone was $252,564.

[4] At a cost, up to December 1, 1900, of $2,910,999.57. Smiley, p. 513.

[5] The legislature of 1887 asked Congress not only for this building but for "a suitable sub-treasury building with vaults of sufficient capacity to store all the surplus gold and silver coin and bullion of the nation." Such a building was needed, it was urged, because all the other sub-treasuries were on the seaboard and hence subject to aattck.

## THE CITY GOVERNMENT.

This phenomenal industrial development created a spirit of thrifty optimism. This spirit permeated the city's every municipal activity, and gave color and bias to its every enterprise. It was the connective tissue that enfolded all the political institutions through which the residents of Denver expressed their civic will. The more important of these institutions were the Chamber of Commerce, the Political Party, the State Legislature, the State Judiciary, and the City Government proper.

The institution through which this spirit found most definite expression was the Chamber of Commerce. The Chamber was organized on January 8, 1884,[1] "to promote the general prosperity of all the varied interests of the State of Colorado, and of the City of Denver, and especially those of the City and its vicinity."[2] The organization served primarily as a medium for the definite expression, in word and in deed, of the city's industrial spirit. The President of the Chamber, in his opening address[3] in January, 1888, answered the question, "What is to make Denver a large City?" by saying, "Denver has no rival within five hundred miles, and in this radius the Creator has placed greater and more diversified natural resources than in any other equal extent of territory in the world. . . . It simply dazzles the mind to contemplate what these resources are, or to realize to what magnificent proportions they must bring our rapidly growing city." Another of the Chamber's Presidents said two years later in his inaugural address:[1] "We are to be congratulated that providence has placed our business interests in such a city as Denver, with a present, the greatness of whose opportunities thrills every drop of our blood, with a future so great that the most sanguine among us fail to appreciate its vastness." The Chamber was particularly influential in bringing to Denver conventions and assemblies of national import.[2] But, more important than all else, it was through this institution that the industrial and governmental activities of the period were unified. Through its committees on commerce; on manufactures; on railroad building; on freight rates and transportation; on mines, mining and smelting; on stock growing, stock yards and packing; on wool and wool growing; on architecture and the arts; on importation and exportation;[3] on arbitration, public institutions and improvements; on metereology; bimetallism; and on immigration and statistics, it fostered Denver's every interest, by furthering state and local legislation, by publicity, and by encouragement. To aid it in securing and disseminating information advantageous to the city's growth, the Chamber, in 1889, secured the passage of a state law[4] creating a State Bureau of Immigration and Statistics. The Bureau was soon "proving a strong ally in the field theretofore held alone by the Chamber."[5]

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[1] Denver's first chamber of commerce was organized late in 1860 but was maintained only a short time. On November 13, 1867, a Board of Trade was organized to push the Denver Pacific Railway, then followed, on November 12, 1880, the Merchants' Board of Trade.

[2] From the Preamble to the By-laws. The full title of the organization was the Chamber of Commerce and Board of Trade. The initiation fee was $150 and annual fee $12. Report of Chamber for 1898, p. 12.

[3] Report of Chamber for 1887, p. 7.

While this industrial spirit, this ethos of the times, pervaded all the citizens of Denver, and motivized their every activity, yet not all alike reaped its richest benefits, for the few, not the many, pushed to the fore, shaped legislation, and molded industrial opportunities. Such an atmosphere was most propitious for control by the capitalistic interests, especially the coal, iron, mining, and smelting managers and entrepreneurs, railroad promoters, and the financiers of public utility companies. These interests, consciously and unconsciously, allied themselves and became a well organized, integrated minority that directed local and state industrial activities. Through these and other means their energy and foresight were transformed into capital, and into their pockets came the unearned increment due to increased population. Within this thoroughly integrated minority, this sociocracy, was developed a social tone that lauded all propositions that had to do with the industrial welfare of the city, while heaping severe anathemas upon any citizen that did aught to thwart, or seem to thwart, the city's future growth. As the interests of all the citizens were engulfed in this same spirit, it was easy for this thoroughly integrated minority to control the disintegrated majority. This control was exercised, to a large extent, by dominating the machinery of the successful political party.

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[1] Report of Chamber of Commerce for 1889, p. 12.

[2] Such as the Silver Conventions already spoken of, the National Encampment of the G. A. R. in July of 1883 and the Trans-Mississippi Commercial Congress of May, 1891.

[3] Added in 1892.

[4] Laws, 1889, p. 189. The law was drafted by the President of the Chamber and passed with but slight modifications.

[5] From the President's Address in 1890. See report of Chamber for 1889, p. 11. The Bureau was headed by a Secretary, salary $3,000, who was specifically required to keep his office in Denver.

Upon the admission of the state, there was a valiant fight between the Democrats and the Republicans for control of the state. The Republican party won the victory and remained the majority party throughout the entire period. Numerous were the forces at work to amalgamate the national, state, and city wings of the Republican party into a unified whole. Through aid and protection to certain group-interests in the state, promised irrigation schemes to the farmers, possible extension of the grant of public lands, protection to the stock raisers by a tariff on hides and wool, aid to the manufacturers through tariffs and rate adjustments,[1] aid to the railroads, public buildings and offices for Denver, and protection to the mining interests, the national machinery of the Republican party kept the state organization in full sympathy with it. All the national Senators elected from Colorado were chosen from the capitalistic interests of the state,[1] almost exclusively, indeed, from those capitalistic interests that centered in Denver.[2] Four of the seven governors came from Denver. The city branch of the state party was just as essential to the state organization, through its votes, offices, and control of the state and national patronage, as the state organization was to the city branch, and hence there was the closest possible alliance between the two. In other words, it was through the Republican party that the interests of the city and the state were to find expression or suppression.

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[1] Through the Interstate Commerce Commission.

By the constitution,[3] the number of senators was limited to 26, the number of representatives to 49, these limits not to be exceeded until 1890, when the total number of senators and representatives might be increased to one hundred. The constitutional convention[4] allotted to Arapahoe County, Denver, in other words,[5] four of these 29 senators—four times as many as any other county save two,[6] and twice as many as these—and seven of the 49 representatives—a much larger delegation than was allowed to any other county.[7] The apportionment made in 1881[8] practically gave to Arapahoe County another senator by creating a new senatorial district out of Arapahoe County and two thinly populated neighboring counties,[1] allotting the new district one senator. This apportionment also allowed Arapahoe County eight representatives. With five senators, Denver had 19.2 per cent. of the total membership of the Senate, and one-third of the votes essential for a majority in the Senate. More important still, since fifteen Republican votes could pass a measure in the Senate, and since important measures would be determined in caucus, seven votes could dominate the caucus, and of these seven votes Denver could, alone, furnish five. In the House, Denver had 16.4 per cent. of all the votes, 32 per cent. of the majority vote, and 61 per cent. of the caucus vote. The actual relative voting strength of Denver during the entire period remained at about these proportions.[2] In party councils Denver held the same marked advantages that she had in legislative matters, as the same apportionment was the basis for state party conventions and for state committees.

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[1] Alva Adams, a Democrat, was elected in 1888 because of dissensions in the Republican party. The Republicans elected all the other senators of this period.

[2] Five of the eight senators elected during this period were from Denver.

[3] Art. V; 46.

[4] Const., V; 48.

[5] The population of Arapahoe County in 1880 was 38,644, of which 35,629 were in Denver.

[6] Clear Creek and Las Animas.

[7] Boulder and Clear Creek were allowed four each, Gilpin and Las Animas three each, six counties two each, and fifteen counties one each.

[8] Laws, 1881, p. 20. The basis for the apportionment of senators was: one senator for first 5,000 population; one for each additional

In other words, the Republican party, during all this period, was the actual government of both Denver and Colorado. Had the Democratic party been the majority party, the results would probably have been about the same, for its constituent groups were then all submerged, as were the

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9,000 population, and one for fractions over 7,000. For representatives, one for the first 1,000, one for each additional 5,000, and one for each fraction over 3,000,

[1] Elbert and Bent.

[2] For instance in the Legislature of 1879, Denver had 4 of the 19 Republican votes in the Senate, and 7 of the 36 Republican votes in the House. In the session of 1887, there were 18 Republicans and 8 Democrats in the Senate; Arapahoe County had 4 Republicans and one Democrat, a voting unit of nearly one-fourth the Republican majority. In the House during this same session there were 43 Republicans, eight of which, 18.6 per cent., were from Arapahoe County. In the Legislature of 1889, Arapahoe County had 38.2 per cent. of the Republican vote in the Senate and 32 per cent. of the voting majority in the House. The Democrats had greater voting strength in the Legislature of 1891.

constituent groups of the Republican party, in the same spirit—the unquestioned certainty that in the grasp of all with foresight and energy, there was wealth of no mean proportions.

The formal institutions that determined for Denver what she could do, and by what machinery she should be governed, were the state legislature and the state supreme court. The court's decisions are considered later. The first three legislatures[1] each revised the charter of Denver, the Legislature of 1885,[2] completely reorganized the plan of government, that party control might be more complete, and the two succeeding legislatures made sure of the spoils of office in Denver by the creation of two state boards.

The revised charter, adopted by the first state legislature,[3] in order to make effective the constitutional provision that cities under special law should, on their own motion only, come under the general law, specifically declared[4] that this revised charter was a revision of the charter of 1874, and therefore subject to repeal, amendment or alteration at any time. This first legislature also provided[5] for the procedure under which a city under special charter could organize under the general law. Though this procedure could be initiated by but one-eighth of the voters of the city, the council being required to put the question to a vote when petitioned by this number, there was, in Denver, no movement whatsoever to change from special to general law. The Supreme Court, in numerous cases,[6] upheld the right of the legislature to pass special laws as to Denver, though it restricted this right to include only such laws as could "be fairly considered as revisory or amendatory of the charter existing prior to the adoption of the constitution,[1] and to such[2] as did not refer to matters within the expressly enumerated constitutional inhibitions." Had the courts denied to the legislature power to enact special laws as to Denver through amendments and revisions of her pre-constitutional charter, such special legislation could have been enacted by creating a fourth class of cities the requisite population for which was such that Denver would be the only city in the class. As a matter of fact this is just what was done. Colorado courts,[3] as have other courts,[4] upheld such legislation. Not until the Home Rule Amendment of 1902 was Denver to be exempt from special legislation.

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[1] The Legislature of 1879 passed four acts special in their application to Denver. Each of the succeeding legislatures averaged two or three. The charters of the other cities with special charters were also freely amended.

[2] Laws, 1885, p. 74. Approved March 16,

[3] The first state legislature met in 1877. Succeeding legislatures met biennially on the odd years.

[4] See 8 Colo., 116.

[5] General Laws, 1877, p. 915.

[6] See, for instance, 8 Colo., 116; 13 Colo., 303; 26 Colo., 137.

Legislation as to Denver's elections and wards clearly reveals party manipulation. From October 9, 1877, to April 10, 1883, Denver's city elections were held in the fall at the same time as the general elections, thus subordinating local to state issues.[5] In 1883, when city and state were safely Republican, the legislature enjoined the council[6] to increase[7] the number of wards in the city from six to nine, this number not to be exceeded until the city's population was over 70,000, when one ward might be created for each 10,000 in excess thereof. The council at once redistricted the city into nine wards, the boundaries of which were evidently satisfactory from the politician's point of view, as the charter of 1885 declared that the ward boundaries should remain "as now defined by ordinance" until the city's population should exceed 100,000, at which time the council could redistrict the city on the basis of one ward for each 10,000 inhabitants. Four years later,[1] however, the legislature authorized the council to create twelve wards whenever it chose, but not until 1893, when party strife was again intense, did the council increase the number of wards to the maximum permissible.

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[1] 7 Colo., 305; 8 Colo., 116 and 417.

[2] 9 Colo., 450.

[3] 8 Colo., 417. The court sustained the creation of a superior court for cities of a given population, Denver being the only city with the requisite population.

[4] 77 P. R., 338; 48 Ohio, 211; 43 Ohio, 98.

[5] In 1885, the residence requirement for city suffrage was raised, for the first time, from 30 to 90 days. Charter, 1885, Art. IV; 6.

[6] Laws, 1883, p. 54.

[7] "Within one year thereafter."

The legislatures freely granted to Denver all the powers and privileges that she requested. Extensions were made to the city's boundaries, the largest additions being in 1883 and 1889, when 4,625 and 2,400 acres, respectively, were included within the city's limits. The phraseology of the charter provisions pertaining to additions was such as the city itself would have used in a home rule charter.[2]

The police powers of the city and its powers to make building regulations and require inspection were extended.[3] The city was given "exclusive"[4] power to license, tax, and regulate (but not to prohibit) saloons, and exclusive power to suppress prostitution and gambling. This grant of exclusive power the court interpreted[5] to repeal or suspend the action, within the city, of the general laws of the state on these subjects and to make the city ordinances thereon supreme. In 1883 the city was specifically given power to assess the entire cost of improving streets or public squares "against the property benefited thereby."[6] The charter of 1885, however, required one-third the cost of improvements to be paid by the city. The next legislature[7] restored to the council power to order street repairing to be done wholly at the cost of abutting property owners. The council was enjoined[1] to establish sprinkling districts and let contracts for sprinkling service. Added powers over city health were enumerated and summary powers granted to the city's health officers.[2] In 1889, the amount that the council could expend on "funerals and official visitors" was increased to $5,000. Into this account were often thrown bills that could not be properly charged against any other fund. The license power of the council was liberally extended.

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[1] Laws of 1889, p. 137.

[2] In 1891 the county court was empowered, upon petition, to disconnect from the city's limits any unplotted territory of not less than 30 acres. Laws, 1891, p. 392.

[3] Charter of 1877, sec. 66; Laws, 1883, p. 62; 1885, p. 74; 1889, p. 127.

[4] Charter of 1885, sec. 20: 12 and 13.

[5] 9 Colo., 450.

[6] Laws, 1883, p. 95.

[7] Laws, 1887, p. 79.

In 1879[3] an act was passed enabling "the city council to establish a system of sewerage." The act provided for three classes of sewers: (1) sewers to be built solely at public expense; (2) district sewers to be built by special assessments upon the property benefited thereby, when a majority of abutting property owners petitioned therefor, or the board of health ordered them; and (3) private sewers to be built upon private initiative at private expense. Over all three classes the council had supervision that the system might not prove unworkable.

Plenary power was granted over the city's water supply "for irrigation or domestic purposes."[4] Greater power over railroad tracks[5] was enumerated to the city. The city was empowered to build tunnels and viaducts, collecting, at its discretion, for not over fifteen years, reasonable tolls for the use thereof. And, finally, the council was empowered, in 1889, to pass any and all ordinances needful for the protection and preservation of the "good order, health, good government and general welfare of the city." To this blanket grant of power the succeeding legislature added: "and also for the protection and preservation of any city property, privileges, or franchises." Few indeed have been the cities, and no others in Colorado, that have enjoyed such a liberal grant of powers as was extended to Denver during this period.

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[1] Charter of 1885.

[2] Ibid., Art. IX.

[3] Laws, 1879, p. 199.

[4] Laws, 1887, p. 85; 1889, p. 128.

[5] Laws, 1889, p. 127. These powers the supreme court upheld in 20 Colo., 186.

In 1885, the maximum tax levy of ten mills was slightly extended by excepting therefrom assessments for the construction of district sewers.[1] The mandatory provision requiring the council to make "reasonable compensation" to the county officers for assessing and collecting city taxes, but leaving the council to determine what "reasonable compensation" was, was found to be impractical and was three times amended. The first amendment[2] fixed the maximum compensation at the fees allowed by the general law for such services, the second[3] fixed the aggregate at "one per centum of the total amount of taxes collected for said city," the third[4] required the city to pay the county of Arapahoe "one half of one per cent." of all the city taxes, and prohibited the payment of any money by the city to any county officer, such officers to be paid solely by the county, thus doing away with any discretionary relations between city officials and the officials of the county. The purposes for which city debts could be contracted were extended[5] to include the purchase and improvement of lands for public parks and squares, the construction of water reservoirs, bridges, sidewalks, storm sewers, and the funding of indebtedness. An attempt was made, in 1887,[6] to compel a one mill levy for a sinking fund to pay off the bonded debt, but this plan was abandoned two years later[7] and the fund that had been collected was thrown into the general fund. Strict provisions were inserted into the charters, safeguarding the making of contracts by city authorities, and annulling all attempts to bind the city to pay money before such money had been specifically appropriated by the council. These provisions the courts[1] upheld as mandatory and required individuals doing business with the city to take notice of them in making and fulfilling contracts with the city.

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[1] Charter of 1885, VI; 1.

[2] 1883.

[3] Charter of 1885, VI; 5.

[4] Laws, 1891, p. 76.

[5] Laws, 1889, p. 136.

[6] Laws, 1887, p. 92.

[7] Laws, 1889, p. 135.

The courts, as is their wont in the United States, put the strictest possible interpretation upon all these grants of power.[2] For instance, the grant of power over the city's streets and sewers was interpreted to mean that a street, once laid out, had to be kept in a safe condition for travel[3] and that sewers, once established, had to be kept efficient up to their original capacity.[4] The constitutional provision as to uniformity in taxation was construed to prohibit a special assessment for "the construction of curbstones and gutters separate from sidewalks."[5] The reasonableness of nuisance ordinances, especially those based on the general welfare clause, was minutely scrutinized.[6]

The state's interests were guarded with increasing zeal. Said the Supreme Court in 1879:[7] "When the interpretation of a charter is doubtful, that interpretation is to be given it which is most favorable to the public, provided it be equally reasonable." But "the public" came to include more and more the state at large. Said the court in 1893:[8] "A municipal corporation, under a general grant of authority, cannot adopt ordinances which infringe the spirit or are repugnant to the policy of the state as declared in its legislation."

A leading reason for this tendency was that the state was coming more and more to occupy fields theretofore exclusively occupied by municipal ordinances. Through the efforts of the Charity Organization Society of Denver, the state legislature enjoined the city council to "aid and foster" the organization "by all lawful means,"[1] and created[2] a State Board of Charities to investigate and make biennial reports upon all state, county, and municipal charitable institutions. Several acts[3] were passed that considerably diminished Denver's discretionary power over the regulation (but not over the licensing) of saloons. Numerous other general laws were passed that had their principal application in Denver. Such were the laws regulating employment and intelligence offices,[4] election laws,[5] corrupt practices acts,[6] laws preventing and punishing wrongs to children,[7] laws regulating the power of eminent domain,[8] and health legislation, such as laws prohibiting the adulteration of foods,[9] requiring the inspection of meats,[10] and enumerating the powers and organization of county and state boards of health.[11] In many of these laws, Denver was finding the state a more efficient administrator than the city but the total effect was to counter-balance the larger grant of powers to Denver by state activity in kindred fields.

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[1] 8 Colo., 257; 20 Colo., 84.

[2] 7 Colo., 113; 8 Colo., 399; 13 Colo., 303.

[3] 7 Colo., 305 and 328; 9 Colo., 415.

[4] 2 Colo., 669; 4 Colo., 25; 9 Colo., 554.

[5] 12 Colo., 600.

[6] 7 Colo., 345; 19 Colo., 189; 20 Colo., 552.

[7] 5 Colo., 39.

[8] 19 Colo., 183.

The constitution of the state specifically gave[11] to the General Assembly "power to create and establish a criminal court in each county having a population exceeding fifteen thousand," with jurisdiction concurrent with the district

[1] Laws, 1889, p. 129.
[2] Laws, 1891, p. 325.
[3] Laws, 1877, p. 583; 1889, p. 126; and 1891, pp. 259 and 315.
[4] Laws, 1891, p. 188.
[5] Laws, 1877, p. 360; 1881, p. 113.
[6] Laws, 1887, p. 347.
[7] Laws, 1891, p. 59.
[8] G. L., 1877, p. 396, e. g.
[9] Laws, 1887, p. 15.
[10] Laws, 1889, p. 244.
[11] G. L., 1877, p. 703.
[12] Art. VI; 25.

court in cases not capital. Such a court the Assembly created[1] for Arapahoe County in 1881 by a special law particularly naming Denver and Arapahoe County. The Supreme Court[2] at once declared the act unconstitutional, on the grounds that, though the constitution permitted the creation of a criminal court in such counties with a population of 15,000 or over as the Assembly cared to designate, yet the constitutional inhibition[3] as to special legislation on affairs judicial required that the organization, jurisdiction, and practice of such courts must be provided for by general laws of uniform operation. In keeping with this decision, the succeeding legislature[4] created criminal courts in Arapahoe, Lake, and Pueblo counties but provided by a general law of uniform operation for the jurisdiction and procedure of such courts. The Arapahoe Criminal Court thereby created continued in existence until abolished by the Legislature of 1889;[5] the other two were not abolished until 1891.[6] In the meantime, other courts had been created for Arapahoe County.

Previous charter provisions as to the police court in Denver[7] continued in force until 1883, when an attempt was made to organize, in the charter of that year, a special police court. The police judge, for the court so devised, was to be elected biennially, by the city electorate alone, yet the county of Arapahoe was to pay half the salary of $2,400 granted to the police judge, and half of the salary of $1,500 granted to his clerk. These charter provisions the courts declared to be special legislation and hence unconstitutional. Denver's next charter, that of 1885, said nothing as to police courts but left to a separate act the creation of the city's police court. This act[1] provided by general law for a police magistrate's court in all cities of the state the population of which should exceed twenty-five thousand, whether organized under special or general law. Moreover the salary of the police judge, $2,500, and of his clerk,[2] $1,600, was to be paid wholly by the city. Denver was the only city with the requisite population. The courts[3] upheld the act, however, on the ground that it was "unlimited as to time and in its operation," and hence other cities might, as their population increased, come within its purview. The Legislature of 1883,[4] by a similar law, likewise applicable only to cities of over 25,000, created for Denver a Superior Court with jurisdiction concurrent with the district courts. This court was abolished in 1889.[5] To the police court and the district court were given the jurisdiction that the criminal and superior courts had been authorized to exercise. The work of the district court was relieved in 1887 by a statute constituting Arapahoe County alone as one judicial district.[6] The district court was further relieved in 1891[7] by the addition of a fifth district judge.

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[1] Laws, 1881, p. 75. Also, by a special act, one for Lake County.

[2] 5 Colo., 455 and 509.

[3] Art. V; 25.

[4] Laws, 1883, p. 153.

[5] Laws, 1889, p. 111.

[6] Laws, 1891, p. 133.

[7] Upheld by the supreme court in 7 Colo., 475.

As to the council, the legislation of this period is characterized by a continued diminution of the council's relative power and prestige, made all the more marked, in 1885, by the substitution of a bicameral for the old unicameral council. The new upper branch of the council was called the Board of Supervisors. The Board was composed of five members elected at large for two year terms. The lower house, the Board of Aldermen, was made to consist of one member from each ward, instead of two as theretofore, and their tenure was likewise fixed at two years, annual elections being abandoned entirely.

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[1] Laws, 1885, p. 290.

[2] Appointed by the police judge.

[3] Darrow v. The People, 8 Colo., 417; 29 Pac. Rep., 516.

[4] Laws, 1883, p. 281.

[5] Laws, 1889, p. 442.

[6] Laws, 1887, p. 317. By cutting Larimer and Weld Counties off from the Second district.

[7] Laws, 1891, p. 36.

The reason for the creation of the Board of Supervisors was that the majority party thereby assured itself of control of the council. As the city as a whole was safely Republican, the upper branch, elected at large, would be safely Republican. The decay of the council was most rapid after it was made a bicameral body, for this so thoroughly diffused its powers and responsibilities that neither the council as a whole, nor either branch of it, could be held definitely responsible for any action whatsoever. Nor could responsibility be unescapably fixed upon any one of its members. No distinct powers were granted to the Board of Supervisors, save power to confirm the nominations of the mayor. Even this power was, to a certain extent, taken from it, in 1887, and given to the council in joint convention assembled.

Each branch of the council elected one of its own members as its President.[1] Vacancies, if they occurred, first two,[2] then four, months[3] prior to a general city election, were filled by a special election called by the mayor; but special elections to fill vacancies were done away with in 1889[4] such vacancies to be filled by the mayor, subject to the consent of the Board in which the vacancy occurred. By the charter of 1883, the salaries permissible to members of the council was increased to $600. The council at once authorized the increase.[5] In 1885 the Presidents of the two Boards were given an additional salary of $400. In 1889[6] the salaries of the aldermen were increased to $1,000, the salaries of the supervisors to $1,200, with $300 additional for the respective presidents. Higher salaries, however, did not stay the decay of the public faith in the council. The qualifications for membership in the council were increased, first, by requiring that they be property holders,[1] and then,[2] in lieu thereof, that they be, for "at least one year," city taxpayers, a qualification that the Supreme Court[3] upheld as constitutional. But higher formal qualifications did not secure councilmen of merit. Each board was made, for the first time, the "sole" judge[4] "of the qualifications, elections, and returns of its own members." This left to the courts power only to review the regularity of the board's proceedings.[5] The council in joint convention was the city's canvassing board. As a check upon the council, numerous details were put into the city's organic law, regulating its procedure, and limiting its discretionary powers. The yeas and nays were required to be taken on the passage of every measure, the courts holding that this must be done on every action, other than a motion to adjourn, before it could be valid.[6] A vote of a majority of all the members elect was made necessary for the passage of a measure,[7] and an ordinance, duly passed, to be valid, had to be published[8] within ten days in some Denver "newspaper of general circulation." The powers of the council, both administrative and legislative, were decreased by granting added powers to the mayor and to the state boards. Larger salaries, higher qualifications, numerous checks, and division of powers did nothing to stay the decay of the council, a decay that was hastened because it was bicameral. The office of councilman was sought mainly by ward politicians, and the action of the council as a whole reflected the character of its membership.[9]

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[1] Charter of 1885, II; 3.

[2] Charter of 1885.

[3] Laws, 1887, p. 78.

[4] Laws, 1889, p. 134.

[5] Ordinances of 1884, p. 101.

[6] Laws, 1889, p. 149.

[1] Charter of 1883.

[2] Charter of 1885.

[3] 8 Colo., 417.

[4] Charter of 1885, II; 3.

[5] 8 Colo., 417; 13 Colo., 460.

[6] 6 Colo., 151; 11 Colo., 483.

[7] Charter 1885, II; 4.

[8] Ibid. II; 8.

[9] The work of each branch of the council was still done, of course, by committees. The supervisors had fourteen standing committees, the aldermen eighteen. Ordinances, 1886, pp. 16 and 25.

The decline in the power and prestige of the council, the growth in the city's business, the increasing volume of administrative detail, and the need of a single executive to secure efficient service and evolve constructive policies, caused a tremendous increase in the power and influence of the mayor. The first charter of the period, that of 1877, markedly increased the mayor's influence by requiring him to prepare for the consideration of the council, in its deliberations upon the annual appropriation bill, a detailed estimate of the amounts needed for each city department. To aid him in making these estimates, heads of departments,[1] and the chairman of each council committee, were required to report to the mayor in detail "the probable expenses to be incurred in their departments." The council's annual appropriation ordinance was to be "based upon the estimate of the Mayor but not of necessity governed by it." Two years later,[2] his veto power was made to include all orders and resolutions appropriating money, whatever the amount appropriated. In 1885, he was made an ex officio member of several important committees, such as the auditing committee and the board of health. He was given greater power in the appointment and removal of city officials. The ordinances attempted to make him the head of the street and water departments, though elective officials headed each. He was empowered[3] to appoint experts to examine into the affairs of any city department. His power to require any city official to exhibit his books and papers for the mayor's examination was made effective by providing that refusal to do so should mean immediate forfeiture of office. After 1885, the mayor had only to report to the council the fines and penalties that he had remitted, the council's assent thereto being no longer necessary for their validity. As the position and prestige of the mayor grew, his qualifications were extended and his salary was more than doubled. The minimum age limit was raised from 25 to 30 years and his city residence requirement was raised from one to two years.[1] In 1883 his salary was increased from $1,800 to $3,600, and in 1885 to $4,000.

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[1] Including the state boards after their creation.

[2] Laws, 1879, p. 202.

[3] Charter of 1883.

It is interesting to contrast this increased power of the mayor in Denver with the static position of the mayor in the other cities of the state. Mayors of first class cities[2] were given a few added powers, while in second class cities, the only reflection of the need of administrative centralization was that the mayor[3] was made subject to general election, thus giving him independence, at least. In Denver there was mobility in structural plan, and changing needs could find expression in changing forms.

During this period of the supremacy of the political party, the number of elective officials was increased unduly. At the beginning of the period, the electorate in each ward had but three officials to vote for: a mayor, a treasurer, and an alderman. This meant that the qualifications of each aspirant for office could be efficiently scrutinized. By the end of the period, however, the electorate of each ward had to vote for not fewer than fifteen officers: the mayor, treasurer, and alderman; city auditor, attorney, engineer, and police judge;[4] city clerk, street commissioner, water commissioner, and five supervisors.[5] This meant a list of over forty candidates. As it was impossible for each voter to learn about the qualifications of each aspirant, it became easy and necessary to vote the "straight party ticket," and party control was thereby notably strengthened. With the increase in the number of party officials there was an increase also in the amount of detailed legislation pertaining to the duties of each of these officials, and in the salaries paid them.

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[1] Laws, 1883, p. 74.

[2] The first state legislature classified cities as they now are classified: cities over 15,000, first class; over 2,000 and under 15,000, second class; 2,000 and under, towns. G. L.; 1877, p. 905.

[3] Laws, 1889, p. 455.

[4] Added by charter of 1883, p. 72.

[5] Added by charter of 1885.

The new duties of the city treasurer were manifold. For instance, he was to select annually, with the approval of the mayor and city auditor, "a bank of the city which will pay the highest rate of interest for the average current deposit of the city's funds."[1] He was made[2] the custodian of the city's property, and required[3] to make annual reports thereon. He was made[4] the purchasing agent for "all things whatsoever necessary" for the use of the city or its officials, a function formerly diffused among all the city departments and council committees.[5] Control and supervision of his activities were obtained, in the main, through published reports.[6] The bond required of the treasurer, $50,000 in 1878, was raised to $100,000 in 1885 and to $200,000 in 1889. His salary, $1,200 in 1884,[7] was increased to $2,500 the next year. Two years later he was allowed a deputy at a salary of not over $1,500.

The position of city auditor was first created in 1883, as a check upon the city's expenditures, and to systematize the method of keeping accounts. It should be noted here, however, that not until well along in the present century, when the national government began to inspect city accounts for the purpose of getting statistics as to cities for publication, was there any efficient method of keeping accounts. It was made the duty of the auditor to countersign[1] and register[2] all warrants, verify all claims against the city, and in conjunction with one member of each branch of the council,[3] to audit every city warrant and claim. Subject to like penalties as the treasurer, he was to report quarterly and annually to the council. His salary was $2,500[4] and he was allowed[5] to appoint a deputy at a salary of $1,500.[6] The city engineer was given full control over his department, with power to appoint and remove his assistants, a power previously vested in the council. His salary was $2,500.[7] The advisory powers of the city attorney were extended and he was likewise allowed a salary of $2,500.[8] The street commissioner was put at the head of the street department[9] and his charter powers were extended by ordinance[10] to include the appointment, subject to the mayor's approval, of all his assistants and laborers. His salary was $1,800. The duties of the city clerk were first enumerated[11] by statute in 1883, and were widely extended with the incoming of the board of supervisors. He was allowed a salary of $2,500[12] and a deputy at $1,500.[13] The office of water commissioner, theretofore appointive,[14] was made elective in 1885, at a salary of $1,500. By ordinance[1] he was given the "general superintendency of water distribution throughout the city," with power, upon the written authority of the mayor, to employ all laborers "necessary to properly carry out the work of water distribution and irrigation." By later statutes,[2] the Platte Water Ditch, since 1875 the property of the city, was specifically placed under his supervision.

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[1] The bank was to give (1885) a $200,000 bond and (1887) make public, under oath, quarterly statements as to the city funds on deposit with it, a fine of $500 being the penalty for each failure so to do.

[2] Charter of 1885.

[3] Laws of 1887, p. 87.

[4] By the charter of 1885.

[5] See Ordinances of 1878, p. 194.

[6] The charter of 1885 increased the fine that awaited delinquent reports from $50 to $500. Bids for supplies had to be opened in the presence of the mayor, the auditor and the supervisors. The charter of 1883 required the district court to appoint annually three competent resident accountants to examine the books and papers of the treasurer and auditor.

[7] Ordinances, 1884, p. 101.

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[1] By charter of 1883.

[2] Charter of 1885.

[3] Two councilmen from 1883 to 1885.

[4] Laws, 1883, p. 85.

[5] Laws, 1887, p. 90.

[6] Laws, 1889, p. 133, $1,200 by laws of 1887.

[7] By charter of 1885; $3,000 by charter of 1883.

[8] By charter of 1885.

[9] Revived in 1885.

[10] Ordinances, 1886, p. 326.

[11] By charter of 1883.

[12] Laws, 1887, p. 91. It was $2,000 from 1885 to 1887.

[13] Laws, 1889, p. 133. It was $1,200 from 1885 to 1889.

[14] As early as 1878, the ordinances provide for the appointment of the Superintendent of the Platte Ditch, at a salary of $200 per month, for eight months of the year. The street commissioner was to distribute the water within the city. Ordinances, 1878, pp. 176 and 191.

The provisions of previous charters that the council could provide by ordinance for the removal of elective officials was omitted in 1885, thereby divesting the council of all semblance of control over them, and creating as many independent, uncorrelated departments as there were elective officials. With a decadent council and with city offices viewed as political sinecures, this omission is quite explicable.

City officials, whether elective or appointive, to be eligible, had to be residents of the city,[3] and[4] had to be qualified voters within the city for at least six months previous to their election or appointment. This latter provision, however, was probably inserted primarily to vacate certain offices, as it carried with it the retroactive provision that any official then holding office, and not so qualified, was at once to vacate his office. All city officials, appointive as well as elective, were required to take an oath that they would, in no sense, be interested in any contract with the city.[5] Contracts in the interests of which bribes were offered were *ab initio* null and void.[6] The tenure of office was, for all, two years.

The titles and salaries of all the important appointive city officials, in 1886, together with the authorities that had power of appointment and removal over them are given in the table on page 123.

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[1] Ordinances, 1886, p. 291.

[2] Laws, 1889, p. 133.

[3] Laws, 1885, IV; 3; 1887, p. 79; 1889, 134.

[4] After 1889. Laws, 1889, p. 134.

[5] To be subject to a perjurer's penalty if so interested. Charter 1885, V; 38.

[6] From 1883 to 1887, attempted bribery of any city official or councilman was made subject to heavy penalties, but this provision was abandoned in the latter year. Laws 1883, p. 82; 1887, p. 94.

This table reveals a decided change in the appointive power. The council does not directly appoint a single officer whereas two decades before it was filling every appointive office. The council has lost not only the appointive power but, in half the cases, it has lost the power even to approve appointments. In 1886 the approving body was the supervisors. From this time on, the tendency is, first, to make the council in joint convention the approving body, and, second, both methods of approval failing, to do away with approval altogether. The police and fire departments, formerly controlled solely by the council, were now wholly under the control of the mayor.[2] The mayor could, on his own motion, discharge any employee in either department, while the immediate supervisors of the departments, the chief engineer and the chief of police, could discharge their employees only with the approval of the mayor. From 1885[3] to 1891[4] the nominal head of the police department was a Board of Police composed of the mayor, the presidents of the two branches of the council, one supervisor, and one alderman appointed by the mayor. As the mayor and his appointees constituted a majority of the board, control vested, in practice, in the mayor's hands. There was also a board of fire commissioners, the chairman of which was the mayor, the other members being the two chairmen of the committees on fire in the respective branches of the council, and the mayor's two appointees, the chief engineer of the fire department,[5] and the building inspector. A like plan

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[2] Charter of 1885. From 1883 to 1885 it was "The duty of the council to confirm" his appointments.

[3] Charter, 1885, VII; 1.

[4] Laws, 1891, p. 65.

[5] The offices of chief and assistant chief engineer of the fire department were first created in 1881. They were the city's first paid fire officials. They were appointed by the council at salaries of $500 and $300 respectively.

APPOINTIVE OFFICERS 1886. (Based on Compiled Ordinances of 1886.)

| Title. | Appointed by | With consent of | Removed by | Salary. |
|---|---|---|---|---|
| Corporation council | Mayor. | Supervisors. | Mayor and Council | $2,500 |
| Health commissioner | " | " | " | 2,000 |
| Chief engineer of fire dept. | " | " | " | 2,000 |
| Assistant chief engineer of fire dept. | " | " | " | 1,200 |
| Chief of police | " | " | " | 2,500 |
| Park commissioner | " | " | " | 1,200 |
| Superintendent of Platte river ditch. | " | " | " | 1,200 |
| Market master | " | " | Mayor alone. | $75 per month. |
| Inspector of buildings | " | " | Mayor and council. | 1,800 |
| Deputy building inspectors | Inspector. | Mayor. | " | $4 per day. |
| Inspector of Weights and measures. | Mayor. | Supervisors. | " | 1,500 |
| Inspector of steam boilers | " | " | " | 1,800 |
| City license collector | " | " | Mayor and supervisors. | See note, infra. |
| City herder | " | " | Mayor and Supervisors. | See note, infra. |
| Fire warden | " | " | Mayor and council. | 1,200 |
| Treasurer's clerk | Treasurer. | " | Treasurer. | 1,500 |
| City Auditor's clerk | Auditor. | " | Auditor. | 1,500 |
| Mayor's clerk | Mayor. | No approval. | Mayor. | 1,200 |
| Prosecutor in public magistrate's court | City attorney. | No approval. | City attorney. | Fees. |
| City sextons | Health commissioner. | Board of health. | Health commissioner and mayor | Fees. |
| Engineer for city hall | Mayor. | No approval. | Mayor. | $75 per month. |
| Firemen for city hall | " | " | " | $60 per month. |
| Janitor for city hall | " | " | " | $50 to $60 per month. |
| Day laborers | Department heads. | Mayor. | Department heads and mayor. | |
| Fire and police employees | Mayor. | No approval. | Mayor. | $85 to $100 per month. |

The office of building inspector was first created in 1883, the office of inspector of weights and measures in 1885; the city license collectors and the city herdman received the same salary as the patrolmen, $85 per month. The bonds required of appointive officers ranged from small sums up to $5,000.

was followed for the health department. The mayor and his two appointees, the chief of police and the health commissioner, together with the presidents of the two boards of the council, constituted the board of health, the chief executive of which was the health commissioner appointed by the mayor. In all these departments the mayor was the responsible administrator. The position of corporation counsel was created in 1885, that the mayor might have an adviser and prosecutor wholly responsible to him, the city attorney being more or less independent due to the fact that he was an elective official. There was a tendency for the mayor to appoint all the department heads, these officials then appointing all their own subordinates with the mayor's approval. Each responsible appointive officer reported directly to the mayor. The mayor could suspend any appointive officer at any time but his actual removal awaited the action of the council in joint convention.[1]

The tendency on the whole was very clearly toward making the mayor responsible for the administration of all the city's affairs. As yet, however, that responsibility was too widely diffused to make the government an efficient one. There was still abroad the feeling that the council should share in administration in order to act as a check upon the mayor. It took another decade to prove the falsity and inefficiency of division of powers and responsibilities, the uselessness of checks and balances.

But the most radical change in the structural plan of Denver's city government was made in 1889, when the state legislature, the famous "Robber Seventh" (so called because of its reckless expenditures and because its members carried home with them a large amount of state furniture and furnishings) made the relation of the state and city government all the more intimate by the creation of a state board, the Board of Public Works, to manage and control all the public municipal works carried on in Denver. A decade and a half after its creation, a Justice of the State Supreme Court explained[1] that the General Assembly was "importuned by the inhabitants of Denver" to create this state board in order "to protect the city against itself" by removing this important department "from local management and from local politics." Mayor Platt Rogers in 1894 told the National Municipal League that the board was created "to prevent the public improvements moneys being squandered by the council." With the state legislators the board was created to give the political party then in control of both city and state added control over the city. Whatever the motives for the creation of the state boards, such, certainly, was the result, as will be shown in the succeeding chapter.

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[1] Laws, 1887, p. 85. The action of the supervisors only was necessary from 1885 to 1887.

By the statute[2] the board was made to consist of three members, appointed by the Governor,[3] the Senate concurring, for two year terms, and removable by him for causes "specifically stated." Only those who had been residents and realty owners in the city for the two years next preceding their appointment were eligible for membership in the board. The board chose one of its own members as its President and elected a non-member as its Secretary. The salaries of this Secretary, $125 per month, of each of the members, $3,000 annually, and all the expenses of the board, were borne by the city. Moreover, the city was enjoined to furnish all such incidentals, clerks, and engineers "as by the board deemed requisite and advisable" and to "pay for the same upon vouchers to be approved by the board." The board was given "full, complete and exclusive authority to expend for and in behalf of said city" all the funds from whatever source derived, whether from bond sales, special assessments, or appropriations by the council, that were to be or could be expended in the construction or maintenance of public and storm sewers, parks, public squares, bridges, viaducts, reservoirs, irrigation systems, side walks, Cherry Creek improvements,—and "such other improvements as the said board shall deem wise and appropriate to be made in said city." The board's powers and duties were indeed large and extensive. How large and extensive they were may best be summarized by the statements that it had under its control the construction of the Fourteenth street viaduct toward which the state alone had appropriated $25,000;[1] that it had expended by December 31, 1891, in "construction" of all kinds within the city $959,894; and that it had under contract for 1892, works that called for the expenditure of $906,326.

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[1] In People v. Sours.

[2] Laws, 1889, p. 137.

[3] The Governor appointed as the first board, Freeman B. Crocker, F. A. Keener, and D. C. Dodge.

The succeding legislature[2] extended the board's power and influence. It increased the President's salary to $4,000 and authorized the board to appoint an engineer (at a salary of $3,000) "and such assistant engineers as it may deem advisable." It transferred to the board the appointment of the city's building inspectors, thereby giving to it the administration of the city's building ordinances. All of the board's appointees were to hold office at the board's pleasure. Boulevards and pleasure ways were placed within the board's jurisdiction, as also power to locate and define pleasure ways. Pleasure ways once established, the council could grant no franchises for street railways thereon. This gave to the board a slight thwarting power, at least, in the matter of street railway extensions and grants. And finally this statute wrested from the council its last vestige of even concurrent control over public improvements by vesting in the mayor power to let, "without any action on the part of the city council,"[3] all such contracts as the board approved.

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[1] Laws, 1889, p. 169.

[2] Laws, 1891, p. 76. It also authorized the Governor to appoint a board with like powers, though unsalaried, in cities of over 10,000 whenever one-third of the qualified property-holding electors of the city requested him so to do.

[3] The statute of 1889 had given to the council concurrent power in awarding such contracts.

That the statute of 1889 gave to the board the control of the city's parks has been noted. The Cherry Creek town companies, in their zeal to get real estate for sale, made no provisions for parks. The Aurarians, to be sure, designated one block that lay over a mile out[1] as a "park" but it was too far away and was cut off by the lines of the Congressional grant. Denver set aside not one block for such purposes. In 1872 Mayor Bates first seriously urged the acquisition of parks. In that year, due to the efforts of Delegate Chaffee, Congress ceded to the city the land that now comprises Congress Park. About that time, too, Lincoln Park was donated to the city by a former Territorial Governor, A. C. Hunt. In 1881, the Assembly sold to the city, at a nominal price, the 320 acres now in City Park. The city was empowered to improve these parks,[2] but not until 1887 was a mandatory park fund created. A charter amendment of that year[3] enjoined the city council to "appropriate once every year hereafter, the sum of one-fourth of one mill upon the taxable property of the city" as a fund to be used in improving the parks of the city. By 1890 the city owned 441 acres of improved park land,[4] all of which, together with the unimproved land, was now under the control of the state board. The statute of 1891 gave to the state board all control over the park fund, denied to the council any discretionary power over it, and increased it by enjoining the council to "collect and assess" therefor a tax of "one half of one mill." The board administered the fund through a salaried[5] park superintendent.

The Legislature of 1891 created by special statute a second state board for Denver, the Denver Fire and Police Board.

[1] Over a mile southeasterly from the mouth of Cherry Creek. Smiley, p. 645.

[2] The earliest grant, made in 1874, was power to plant "ornamental trees" in the city's streets and public grounds.

[3] Laws, 1887, p. 93.

[4] National Census Report on Cities, 1890, p. 35.

[5] Salary, $1,500.

The pretext for its creation, was that these city departments would then no longer be administered primarily for advancing the interests of the city's party machine. It only transferred their corrupt use from city to state. The statute's[1] provisions as to tenure, membership, qualifications, office help, appointment, and removal were the same for this board as for the Board of Public Works. The salaries provided for, however, were but $1,500 for each of two members and $3,000 for the one that was chosen president. As the Democrats were more powerful in this legislature than in the preceding one, they succeeded in getting into the statute a provision that one member of the board must be of a different political faith from the other two. This made possible some division of spoils.

The board was given full control of the fire and police departments, including the sole right to appoint, remove, discipline, and fix the remuneration for all the employees in these departments, over 165 in number.[2] The board was made the custodian of the property of both departments.[3] It was also made the purchasing agent for all supplies needed by either department. Under burdensome restrictions, the board's powers were extended to include authority, concurrent with the council, to revoke certain classes of licenses.[4] The Act, approved on March 4, declared that an emergency existed, and that the new board should take office on the tenth of March, six days after the bill was passed. Governor John L. Routt, Governor of the state from 1876 to 1879,[5] and from 1891 to 1893, and from 1883 to 1885 mayor of

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[1] Laws, 1891, pp. 65 and 70.

[2] Over 100 of whom were in the police department and about 65 in the fire department. This included the detective bureau, which was formerly specifically under the mayor's control.

[3] Englehart, in his "The City of Denver," p. 12, gives the value of the property of the fire department in 1889 as $115,000.

[4] Such as for dance houses and saloons.

[5] November, 1876, to January, 1879. First State Governor.

Denver, appointed three politicians,[1] Robert S. Roe, Egbert Johnson, and Robert W. Speer, as the first Fire and Police Board.

When the bill providing for the creation of the state Board of Public Works was first before the Senate,[2] it was opposed on the grounds that a board charged with duties and endowed with powers relating to the expenditure of city funds, the payment and cancellation of the city warrants, and the construction of the city's public improvements, was repugnant to the section of the constitution forbidding the General Assembly to "delegate to any special commission . . . any power to make, supervise, or interfere with any municipal improvement, money, property, or effects, or to levy taxes or to perform any municipal function whatever" and was therefore unconstitutional. In accordance with a provision in the state constitution, the Senate at once sent the bill, before giving it further consideration, to the Supreme Court and asked the Court to pass upon its constitutionality. The Court held[3] that such a board was not a special commission, "but a department of the city government," adding the very interesting remark that "the right of local self-government in cities and towns is generally a matter pertaining to the policy or wisdom of legislation, rather than a question of constitutional construction." The constitutionality of the law creating the Fire and Police Board was also upheld in a later case,[4] on the grounds that the members of the Board, "though appointed by the Governor, . . . are municipal officers, the same as the mayor and other officers of the city elected by the people." State appointed boards thus became an accepted legal part of Denver's local governmental machinery.

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[1] Roe had been a member of the House from Denver, 1879–1881. Speer, now mayor, had up to the time of this appointment already served the city as city clerk, and then as postmaster.

[2] In 1889.

[3] 12 Colo., 188.

[4] 19 Colo., 482.

During this period Denver had grown from a village to a city. In 1880 she was the forty-ninth city in size in the United States; in 1890 she was the twenty-fifth. This meant that she had to evolve from a village plan of government, a plan suited to a city. In so far as governmental efficiency had to do with this evolution, the council type gave way, to the extent noted before, to the mayor type. But governmental efficiency was not the only force making for a changed form of city government. Two other forces were as potent as the demand for governmental efficiency. These were the political party and the public service corporations. The results of party influence have been noted. It remains now to discuss the relations between the city and its public utilities.

## PUBLIC SERVICE CORPORATIONS.

The industrial spirit of the period found full opportunity for concrete expression, for transformation into capital, among the city's public utilities. Such an atmosphere was most propitious for the organizer of public service corporations. It at once stirred the promoter of such concerns to increased activity, for returns promised to be large to him who could monopolize the needs of a thriving city. Values were being rapidly multiplied, solely by influx of population. The all pervading optimism about the city's future made it easy to secure the needed capital. As every resident of the city was engulfed by the same desire for profit in his own industrial sphere, it was easy to secure approval for such projects; at least it was easy to avoid disapproval, for the social mind was busy with other things than franchises.

Denver's growth and prosperity in the first and in the second half of this period were due to widely different causes with widely different results on the character and intensity of the activities of the city's public service corporations. The city's growth in the first half of the period was due to the throngs that were attracted by the Leadville discoveries.

Though this caused a rapid increase in the city's population, new building areas were, in the main, contiguous extensions of the older part of the city. This meant a contiguous extension of the lines and mains of the city's public utilities. The marvelous boom of the latter half of the period was born, not of passing throngs, but of a robust and ever growing conviction that the city was soon to be, as it has come to be, the metropolis of a vast and resourceful region. This meant more buildings and homes and this the real estate speculator transmuted into "additions" and suburban towns. This meant a virgin field for the services that public utilities render. To speculate upon and to capitalize these new needs and prospects, public service corporations arose in great numbers.

The first wave of marked industrial prosperity caused the existing street railway to extend its lines. In 1877, the company had in operation eight miles of road, over which it was running twelve cars, using thirty-two horses, employing eighteen men and carrying, for the year, a total of 392,420 passengers. The Leadville boom created a lively trade for the company, whereupon it increased its equipment and made slight extensions to its mileage.[1] In 1883 the property rights and franchises of the company were sold to a syndicate, most of the members of which lived in Providence, Rhode Island.[2] With this change in ownership, much of the old track was relaid with heavy steel rails, and several extensions and other needed changes and improvements were made. By the opening of the second half of the period, Denver's street railway service was as good as that in any city of its size. One attempt was made to introduce a competing concern. On November 16, 1880, the Denver Circle Railway

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[1] The census of 1880 credits the company with 20 cars, 50 horses, and 25 employees.

[2] Smiley, 855; Hall, IV; 33. Geo. E. Randolph was chosen as local manager. The company was operating, by the end of 1883, fifteen and a half miles of well laid track.

Company was organized with a capital stock of $1,000,000, with a view to circling the city with a dummy (steam) line to serve the suburbs, the manufacturers, and the stockmen. A franchise[1] was secured on January 28, 1881, but the company after constructing about five miles of narrow gauge line, abandoned its project and transferred its franchise rights[2] to certain railroad companies, especially the Atchinson, Topeka and Santa Fe.

It has been noted that the marvelous boom of the latter half of this period necessitated large numbers of new buildings and homes. This activity the real estate speculator transmuted into "additions" and landed wealth. By the latter part of the period, Denver could boast of more landed millionaires than could any other city in the United States, millionaires that could not have been convinced that the panic of 1893 was to leave them land poor. The devotees of each addition, and their number was legion, came to believe that the one thing they needed, in order to sell their real estate, was street railway service. The temptation was to launch such service themselves, if the existing company or companies failed to appreciate the value of the suggested extension.

Hence it was that, in 1884, a group of property owners on Fifteenth street, chief of whom were Rodney Curtis, Frederick A. Keener, John J. Reithmann, and John Evans, the great promoter of local railroads, believing their property was suffering from lack of street railway service, and being unable to induce the Denver City Railway Company to build a line on that street, determined to organize a new street railway company, to operate where they willed. This company, christened the Denver Electric and Cable Railway Company, was incorporated for fifty years, on February 5,

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[1] Compiled Ordinances of 1898, p. 748; Franchises and Special Privileges, 1907, p. 264. Report of State Geologist for 1881–2, p. 29.

[2] Those that were not repealed by the council because of non-use.

1885, with a capital of $500,000, the thirteen incorporators,[1] all resident business men, constituting the company's first board of directors. Rodney Curtis was chosen President and William G. Evans, now all too well known in Denver circles not only as the author and finisher of the Tramway monopoly but also as the persuasive representative of the Tramway in state and local politics, was chosen Secretary.[2] On the day after the incorporation, a franchise was secured from the council, granting the company the right to build a street railway and to operate it "by electricity or by cable" "along and across the streets of Denver." In return for this privilege, the company, whenever the council might request it, was required simply to pave between its tracks and two feet on the outside of each track and keep such paving in repair. The fare was restricted to five cents but no provisions were made as to transfers. Construction was to begin in six months. No streets were specified, no limit was put upon the time that the franchise should run, no provision was made as to extensions, no provisions were inserted furthering and protecting the rights and interests of the public. The franchise, it will be noted, allowed the company to use either electricity or cable as motive power. The use of both was quite new and hence, lest their use prove unprofitable, the company in the month following,[3] secured from the council the optional right to run their cars by horse power, and this regardless of the exclusive horse railway franchise under which the Denver City Railway Company was operating.

On January 21, 1886, a new company was incorporated by five[4] of the leading incorporators of the Denver Electric and Cable Railway Company, with a capital of $50,000. It was christened The Denver Railway Association. It was to operate, if electricity proved unprofitable, under the horse-power ordinance of March 7, which had been assigned to it by the Electric and Cable Company. This scheme provoked dissension among the incorporators of the old and the new concerns, so on May 4, 1886, the Denver Tramway was incorporated[1] as a consolidation of the Denver Electric and Cable Railway Company and the Denver Railway Association, its authorized capital being $500,000, its tenure fifty years from February 5, 1885; the date on which "the elder of said consolidating corporations" was incorporated. Its objects were declared to be to construct and operate electric, cable, and street railways using "any motive power," and to "deal in patents and other rights therefor." The Board of Directors[2] was given plenary powers of government and was authorized to issue, in lieu of the stock of the two consolidating companies, "the stock of the said Tramway Company in the proportion of dollar for dollar." The executive officers of the original company were retained.

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[1] Scott J. Anthony, B. P. Brasher, J. F. Brown, W. N. Byers, Rodney Curtis, John Evans, C. W. Fisher, F. A. Keener, W. F. McClelland, M. J. McNamara, J. J. Riethmann, W. B. Rundle, and R. W. Woodbury.

[2] The other executive officers were: John J. Riethmann, Vice-president; Frederick A. Keener, Treasurer.

[3] March 7, 1885.

[4] Rodney Curtis, William F. McClelland, John J. Riethmann, Frederick A. Keener, and John Evans.

Through the winter of 1885–6, experiments had been conducted with locally devised inventions for propelling street railway cars by electricity, a half mile of such track having been operated through the entire winter.[3] In June and July of 1886, 3,100 feet of electric railway was laid on Fifteenth street and on July 31, the first electric cars were operated for business, the second experiment of the kind ever made.[1] The scheme promising success, three miles of additional track were laid[2] and were ready for operation by November 30. But the new device did not prove a paying investment and it had to be abandoned after a year of trial, though over $200,000 had been spent on the venture. The Tramway then began using horses as a motive power. Its rival promptly obtained an injunction restraining the Tramway from using horses because of its own exclusive horse railway franchise granted by the Territorial Legislature. The Tramway Company then substituted mules for horses but the learned court held that a mule is a horse and the Tramway had to abandon the operation of its lines.

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[1] By a vote of three-fourths of the stock of each company. Folio 7,363, Domestic Corporations, Office of Secretary of State.

[2] Rodney Curtis, John J. Riethmann, John Evans, C. W. Fisher, Scott J. Anthony, M. J. McNamara, W. N. Byers, W. F. McClelland, Frederick A. Keener and J. F. Brown of the consolidating companies and Henry C. Brown, James A. Nichols, and G. C. Schleir as new members in lieu of B. P. Brasher, W. B. Rundle, and R. W. Woodbury. The original company named ten, the new, two of these directors. The twelve chose the thirteenth.

[3] The inventor was Professor S. H. Short of Denver University. For the purpose of developing these devices, the United States Electric Company was organized in August of 1885 by Professor Short, John W. Nesmith, and certain members of the Electric and Cable Company, W. N. Byers being president.

About this time, certain real estate owners in the vicinity of Fifteenth street[3] offered the company a bonus of $200,000[4] if it would try the cable system. The company accepted this proposition, increased its capital,[5] on March 4, 1888, to $1,000,000, built and equipped twelve miles of track over Fifteenth street, built a power house, bonding its road and its equipment for $365,000, its first cost, and had its plant in operation by December 28, 1888.

This new kind of competition stirred a like activity in the Denver City Railway Company. It had, to be sure, been making extensions, but doing nothing more. In order to compete on the same basis, to preempt the streets before its competitor should preempt them, and to substitute cable for horse power, the company was reorganized on May 29, 1888, as the Denver City Cable Railway Company, with a capital of $100,000. The officers[1] of the new corporation had little difficulty in getting from the city on June 4 following a franchise[2] allowing it, while retaining its exclusive horse power privilege, to use cable power whenever it chose so to do. The company was also empowered to build "a single and double track of cable railway . . . in, along, and across all the streets, avenues, viaducts and bridges of the city of Denver, save and excepting all of Fifteenth street," and designated parts of Colfax avenue and Broadway.[3] These streets had been reserved specifically for the Tramway Company, providing it should occupy them before May 2, 1888.[4] The provisions of the franchise were the same as for the street railway franchise above described. No compensation was provided for, save the usual paving clause, and no street railway company was asked to do any paving until 1893. Street privileges were also obtained from Highlands in a franchise[5] somewhat more watchful of public interests, limited to twenty years from October 24, 1888, with right to renewal after twenty years "upon the added payment of an annual rental of ten dollars for each car in use in said line during such additional period." When the company began to face actual constructive operations, it found that its interests would best be conserved by building an "elevated structure" over the South Platte and the nearby railroad tracks. The city wished this structure to be made of "sufficient width for a highway viaduct for use by the general public" and hence the council granted[1] to the company, in return for its added expense in building a wider structure, "the sole and exclusive right to build, construct, equip, maintain and operate street railway lines along and upon the said viaduct," the city to pay, when the viaduct was ready for public travel, "fifteen percentum of the total cost of said work."[2] When completed, the viaduct and bridge were to become the property of the city. They were to be maintained by the city, subject to the right of the company "to own, maintain, and operate a double track street railway thereon." The company at once increased its capital, began work on the viaduct, and let contracts for twelve miles of double track cable railway. This track was ready for operation by November 1. Further extensions were made in the year following, and two good power houses were erected.[3] Both companies being now well equipped, competition began in earnest, each being determined to drive the other out of business and secure for itself the monopoly of street railway service in Denver.

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[1] The first being in Kansas City in 1884.

[2] By the Denver Tramway Construction Company, a corporation composed of the Denver Tramway principals. The Short-Nesmith improved equipments were used.

[3] On Colfax Avenue and along Broadway south from Colfax.

[4] Smiley, p. 860. Hall says $80,000. Hall, IV; 32.

[5] By a unanimous vote of the 4,749 out of 5,000 shares at a meeting called to pass upon this question. Of these 4,749 shares, President Rodney Curtis "represented" 3,641. Amendments to Articles of Incorporation filed with the Secretary of State, April 21, 1888. Domestic Corporations, Folio, 8, 640.

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[1] George H. Holt, President; H. M. Gilligan, Secretary; G. L. L'Hunter, Treasurer; George E. Randolph, General Manager. The company's main office was at 11 Wall Street, New York.

[2] Compiled Ordinances, 1898, p. 791; Franchises, '07, p. 409.

[3] "Colfax avenue from and including its intersection with Fifteenth street eastward to the eastern corporate limits of the city, and Broadway from and including the intersection of Colfax avenue to the southern city limits."

[4] Compiled Ordinances, 1898, p. 791; Franchises, '07, p. 497.

[5] Compiled Ordinances, 1898, p. 1128.

The Tramway Company, in the spring and summer of 1889, built a branch cable line on Tremont street.[4] No sooner was it completed than the company decided to experiment, on a line to South Denver, with the trolley system, the commercial success of which had just been demonstrated elsewhere. For this purpose a subsidiary company, The South Denver Cable Railway Company, was incorporated by the Tramway principals on January 2, 1889. South Denver freely granted the company rights and privileges in its streets, authorizing it to operate its cars by "electricity or by cable, or both, or partly one and partly the other."[1] In other respects the phraseology of the franchise was identical with that of preceding franchises, thus showing that they were all drawn by the street railway companies, and passed without amendment by the city councils. Four miles of trolley road were put into operation in South Denver on December 25, 1889. It proved most satisfactory and the Tramway company, though its cable machinery was not yet worn smooth, decided to electrify at once all its lines.

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[1] Compiled Ordinances, 1898, p. 795; Franchises, '07, p. 411. Approved Oct. 1, 1888.

[2] Provided that the city pay no more than $25,000.

[3] Hall, IV; 33; Englehardt's "City of Denver," p. 23; Smiley, p. 860.

[4] Giving the Tramway a total of 17½ miles of cable line.

But when it came to construct its electric line upon Lawrence street a decided clash with its competitor transferred the street railway battle into the realm of city politics and the state judiciary. In order to preempt Lawrence street, the Tramway company, one night in early December, 1889, put to work a force of 1,600 men and completed four blocks of cable road before day. It then contracted at once for the construction of fifteen miles of double track, incurring liabilities amounting to over $100,000. It was hastening the completion of the line, when its construction was stopped, December 10, by the arrest of certain of its employees by the city's mayor and chief of police. The mayor gave as his reason for thus thwarting the company's activities that the company had no authority or permission to construct electric lines and was, therefore, a trespasser on city property. The next day the Tramway company asked the courts for an injunction restraining the mayor and chief of police from interfering with its work. This put before the courts the question of the validity of the original Tramway franchise of 1885.

This franchise granted to the company the right to run cars "by cable or electricity," but it was now asserted that the city, at that time, had no power to make such a grant. The charter of 1883, the city's organic law at the time that the franchise was voted, endowed the city with authority "to permit and regulate the running of horse railway cars or cars propelled by dummy engines,"[1] but said nothing as to other power, since no other power was then known. The charter of 1885[2] brought the city's authority over street railways up to date by using the phrase "cable or other railroad tracks." But the franchise of 1885 had been issued before the charter was so amended. In 1888,[3] the council expressly validated the franchise of 1885. In 1889 the charter was again amended[4] to read "cars propelled by dummy engines, cable or electricity." Thereupon the council specifically recognized[5] all the rights of way theretofore granted to street railway companies, whether their cars were propelled by electricity, horse-power, cable or steam. The problem for the courts to decide was whether such curative statutes, when passed by the legislative department of a municipality, were valid. The District Court of Arapahoe county held such statutes to be ineffectual. Unless the Supreme Court would reverse this decision the Tramway's attempt to electrify its lines would be thwarted. Appeal to the Supreme Court was at once taken.

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[1] C mp. Ordinances, 1898, p. 1171; Franchises, '07, p. 563.

Pending the Court's decision, the Tramway besieged the council for a franchise allowing the electrical operation of its roads. Thus began the Tramway's influence in the council, an influence that has, since then, only occasionally been relinquished. On February 12, 1890, the council specifically authorized the electrification of all its lines. The company hastened its work and on June 3, the Lawrence street trolley, the first in Denver, was in operation.

The use of electricity by the Tramway necessitated the use of the same motive power by its competitor. The operating expense of the Tramway, when using electricity, was 2.2 cents per passenger as compared with an operating expense of 3.4 cents for each passenger carried on its competitor's cable system. There was nothing left for the Denver Electric and Cable Railway Company to do, therefore, but to electrify its lines. For this purpose, and also to make other extensions, the West End Street Railway Company was incorporated on March 26, 1890, with a capital of $500,000. To this new company, on May 14 following, the council granted a franchise, allowing it to use as motive power, without prejudice to its perpetual horse-power privilege, "electricity, gas, or compressed air."[1] About the same time a franchise was obtained for the new concern from the village of Highlands, the Highlands' franchise providing for a maximum car tax of ten dollars.[2] The right of way between the two towns was, as usual, freely granted by the county commissioners.[3] The road was opened for traffic on September 30, 1890.[4] By 1892, after which year no more constructive work was attempted by this company, it owned and was operating fifteen miles of double track cable lines, ten miles of electric lines, and ten miles of horse car lines.[5] The total cost of its plant had been about $4,000,000, including the cost of the

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[1] "Upon the written consent of the owners of the land representing more than one half of the frontage of the street or as much thereof as is sought to be used for railway purposes." Ordinances, 188 , p. 34. Sec. 41.

[2] Laws, 1885, p. 85, Art. 2, Sec. 20.

[3] May 2 and 3, 1888.

[4] G. L., 1889, p. 127.

[5] Ordinance No. 27, adopted May 13, 1889.

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[1] This franchise was limited to twenty years and specified the streets over which privileges were granted. This departure was necessitated by a state law, later to be described, passed in 1889.

[2] Compiled Ordinances, 1898, p. 1152; Franchises, '07, p. 585.

[3] April 14 and June 11, 1890. Franchises, '07, pp. 581–2. The companies were required to "grade the county roads" over which their tracks ran, "keep the same in repair, subject to the approval of the board of county commissioners," and were forbidden to carry freight save for their own use.

[4] The Denver City Electric Railway Company was incorporated on March 26, 1890, as a subordinate company. It obtained a franchise but did not use it. Comp. Ords., '98, p. 886.

[5] Report of Chamber of Commerce for 1892, p. 32; Smiley, p. 862.

Sixteenth and the Larimer[1] street viaducts, which cost $180,000 and $125,000, respectively.

In the meantime, the Tramway, composed of men long of influence in industrial Denver, and in closest league with the governing powers of city, state, and party, forged far ahead of its competitor. On April 7, 1890, certain members[2] of the Tramway Company incorporated, with a fifty-year tenure, The Denver Tramway Extension Company, capitalized at $500,000, to construct and operate street railways by any power then or later known, "independently of or connecting with the various street railway lines of the Denver Tramway Company." This company immediately constructed two lines into Highlands,[3] and had them in operation by June and July of that year. On May 6, 1890, the three companies controlled by the Tramway principals, the South Denver Cable Railway Company, reaching southward, the Denver Tramway Extension Company, reaching northward, and the Denver Tramway Company, operating in the main part of the city, were consolidated[4] into the Denver Tramway Company (Jr.) with a tenure of fifty years from April 7.[5] The objects of the new company were declared to be "to construct, equip, own and acquire by purchase, consolidation, lease or otherwise, operate and maintain street railways" in Denver and the neighboring towns, using any kind of motive force, "with such powers as shall be necessary and proper to accomplish the objects and purposes aforesaid" and "to deal in patent and other rights pertaining thereto." But little change was made as to the directors of the company.[1] Freedom was given to the directors to meet within or without the state and no provision was inserted as to how the $1,000,000 in capital should be paid in. The company, two years later, certified,[2] in compliance with a recently adopted state statute, that "the full amount" of this stock "had been fully paid in in labor done, services performed and property and money heretofore actually received by the said company to the aggregate amount at a reasonable and fair valuation of the said sum of one million dollars." This, of course, gives no evidence of anything save that the company's stock was amply watered. Thus newly organized, the company made several extensions to its lines[3] and by May of 1893 had electrified its entire system.

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[1] The right to build which was obtained from Highlands, Denver, and the Arapahoe Commissioners. Comp. Ords., '98, p. 1128; Franchises, '07, p. 417.

[2] Rodney Curtis, John J. Riethmann, John Evans, Henry C. Brown, Frederick A. Keener, and William G. Evans. They were also to act as directors of the new company.

[3] Under a franchise passed by Highlands on April 15, 1890, and amended, July 29, with a grant by the county commissioners on April 15. The Agate and Ashland street lines. Comp. Ords., 1898, p. 1145; Franchises, 107, pp. 515 and 517.

[4] By vote of the three corporations.

[5] The birthday of the Extension Company.

The Tramway's characteristic method of enlarging its control, however, was the acquisition of new independent lines,

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[1] The only changes being that the names of C. F. Musgrove, E. M. Ashley, and Sarah L. Curtis appear in lieu of C. W. Fisher, J. H. Nichols, and G. C. Schleir. The incorporators, who were declared to "constitute all the stockholders and subscribers for stock of all the said consolidating corporations" were: Frederick A. Keener, John Evans, E. M. Ashley, J. F. Brown, J. S. Brown & Bro., Sarah L. Curtis, Charles F. Musgrove, John J. Riethmann, William G. Evans, James H. Nichols, William Graham, A. T. Brasher, Elizabeth E. Farmer, Henry C. Brown, M. J. McNamara, W. N. Byers, Mary L. Dickinson, Joseph E. Bates, C. W. Fisher, Rodney Curtis, W. F. McClelland, Scott J. Anthony, F. A. Keener, J. S. Brown, Edward Chase, Alice G. Reynolds, all of Denver save only William Graham, who was fron Philadelphia.

[2] December 13, 1892. Office of Sec. of State, Com. Corps., Folio 14, 720.

[3] On October 11, 1890, Twenty-Second Avenue was opened and on December 19, 1891, Eleventh Avenue and Eighth Avenue from Broadway to Arlington Park. In 1892 the Stout Street and South Tremont, the Harman extension, the Platte Street, and Riverside extensions were opened, the first two on January 1, the others on March 17, November 24, and December 12, respectively. The Twenty-Fifth avenue line was opened on April 15, and Pearl Street in June, 1893.

lines that had also had their origin in the desire to exploit suburban real estate. The first of such lines to be acquired were the dummy (steam) lines built and operated by the Denver and Berkeley Rapid Transit Company and the Highlands Street Railway Company to develop real estate in Berkeley and Highlands, respectively. Both these companies, incorporated in 1888,[1] had secured franchises[2] and put their roads into operation. The Tramway bought both lines late in 1890, for $100,000 (the former alone had been capitalized at $300,000), and at once electrified them.[3] About the same time the Tramway company acquired the electric lines of the University Park Railway and Electric Company, which had been incorporated on February 12, 1889, with a stock of $75,000, subscribed by real estate owners in the University Park district.[4] The next company to succumb to the competition of the Tramway was the Denver and Suburban Railway Company.[5] This company had secured its franchises,[6] bought material for seventeen miles of road, and ground for a power house, when the Tramway blocked its activities through the city council and the courts, compelling it to sell to the Tramway for the original cost of its material. To take over the property of this company, the Tramway principals organized The Metropolitan Railway Company with $1,000,000, in capital.[7] This company also constructed[8] and operated other lines, securing the usual liberal franchises from Denver,[1] Elyria,[2] Harman,[3] Highlands,[4] and South Denver.[5] On April 29, 1893, The Tramway company acquired all the property of the Denver and Park Hill Railway Company, another dummy "boom" enterprise of 1888;[6] much of the line was abandoned, the rest was at once electrically equipped.[7] The one company, other than The Denver City Railway Company, that the Tramway had not succeeded in controlling before the end of this period was The Colfax Electric Company.[8] It did not succeed in getting control of this company until January 26, 1899. The Tramway was, in the meantime, busily extending its own lines. By the end of the period, it was operating in all over one hundred miles of electric railway, was well entrenched in political circles, and was awaiting but a favorable opportunity to crush out the life of its chief competitor.

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[1] May 15 and July 18, respectively. The former was organized by The Denver Land and Security Company.

[2] Franchises, '07, p. 390. Twenty year term, ten dollar car tax; reduced to five dollars on December 4, 1890.

[3] The Berkeley route on June 10, Highlands on July 2, 1891.

[4] Its franchise it had secured from South Denver on March 5, 1889. Comp. Ords., '98, p. 1166; Franchises, '07, p. 574. The Tramway began operation of the line on January 1, 1891.

[5] Incorporated November 21, 1889.

[6] On September 22, 1890, and June 20, 1891. Franchises, '07, p. 40.

[7] Incorporated July 6, 1891.

[8] On South Thirteenth Street, Eleventh Avenue, South Tremont Street, etc.

In the opening of this period, the Denver City Water Company was furnishing through its eighteen miles of street mains, 500,000 to 1,250,000 gallons of water daily. Because of the rapid increase in the population of the city, the increased use of irrigation, which greatly diminished the amount of water in the Platte, and the contamination of the Platte's waters by drainage, the company's system had to be enlarged and new sources for water had to be secured. The company planned to build an artificial lake farther up the Platte.[1] To carry through this improvement The Denver City Irrigation and Water Company was organized[2] with a capital of $100,000, and with authorized bonds of the same amount. This extension was ready for service by May of 1880, giving the company a total emergency capacity of 9,500,000 gallons daily. The next year other extensions were made.[3] On November 6, 1882, the Denver City Water Company, and the Denver City Irrigation and Water Company were consolidated into The Denver Water Company with the same principals and with Col. Archer still president. The next year the company suffered heavily in the death of Col. Archer, its organizer and executive.[4] From this time on, extensions were made, but tardily made. In 1883, the daily capacity of the plant was increased[5] to 16,000,000 gallons. No further extensions and improvements were made for three years thereafter, when the boom of the latter half of the period necessitated both extensions and new sources of water supply.

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[1] Six from Denver from July 28, 1891, to October 31, 1892. Franchises, '07, pp. 533–541.

[2] June 28, 1892. Five dollar car tax. No time limit. Franchises, '07, p. 54.

[3] November 10, 1891. No time limit. Franchises, '07, p. 545.

[4] September 26, 1892. Nothing as to tax or tenure. Franchises, 07, p. 547.

[5] May 19, 1893. Nothing as to tax or tenure. Ibid., p. 549.

[6] Incorporated August 20.

[7] Late in the spring of 1893.

[8] Incorporated September 20, 1889, as the Colfax Avenue Railway Company, changing its name as above on May 4, 1895. It secured franchises from Denver on February 19, 1889, and from Montclair on January 16 and November 13, 1890. Franchises, '07, pp. 378 and 380. And again from same cities on July 31, and June 6, 1898. Franchises, '07, pp. 381 and 383.

On March 24, 1886, an auxiliary company, The Domestic Water Company, was incorporated with a capital of $500,000 and with an authorized bond issue of $150,000, to construct a new system of water galleries still farther away from Denver.[6] Within the city, mains were extended and a reservoir constructed on Capitol Hill. The company's next problem was either to extend its mains or to establish new systems in the rapidly growing suburban towns. On April 23,1887, a franchise for extensions was obtained from Harman.[1] For Highlands a new system was needed. To secure the capital for this purpose, and also to make the most of the opportunity for great financial returns, on July 9,[2] the Beaver Brook Water Company was incorporated, with a capital of $300,000, and $75,000 in bonds. Three days after its incorporation, the company secured from Highlands an exclusive franchise[3] for supplying the village with water, "the scale of prices not to be in excess of The Denver Water Company's prices." Street rights and privileges were also obtained from Denver for the Sixth Ward, the rates "not to exceed those now charged by the company" in Highlands. These rights were limited to twenty years, the city was given the option of purchase at the end of each five year period,[4] and the company had to agree that it would "make no claim for damages against the city" in case it was "in any way finally determined that the Denver City Water Company, or any other corporation, person, or persons, has or have an exclusive right to furnish said city with water." The city was already, though not two decades had passed, beginning to regret its free grants of exclusive franchises. To furnish water to Barnum, another independent village that had sprung up near Denver, another subsidiary concern, The Mountain Water Company, was incorporated on June 26, 1888, with a capital of $100,000, and $40,000 in bonds. Barnum readily granted the needed franchise.[1] The daily capacity of the Denver Water Company's own plant had in the meantime been increased to 24,500,000 gallons,[2] twentyfold its capacity a decade before, and its capital had been increased to $1,501,000.

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[1] In 1878. Lake Archer. Two miles above the mouth of Cherry Creek and a mile beyond the city's limits. A franchise was granted on September 15, 1881, to The Denver Water Supply Company, but nothing was done under the franchise. Comp. Ords., 1898, p. 752.

[2] On November 23, 1878.

[3] Two more pumps with a combined capacity of 5,000,000 gallons and a 350 horse power steam engine were installed at Lake Archer.

[4] Succeeding presidents were: R. R. McCormick, Wm. B. Mills, W. P. Robinson, and Dennis Sullivan.

[5] Archer Lake water having deteriorated wooden galleries were sunk into the gravel beds three miles above Archer Lake.

[6] In the bed of Cherry Creek nine miles above Denver. This increased the daily capacity of the plant 7,000,000 gallons.

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[1] Comp. Ords., '98, p. 1098; Franchises, '07, p. 736. Harman also gave a franchise to The Denver Water Company on February 17, 1891. Comp. Ords., '98, p. 1100.

[2] 1887.

[3] Comp. Ords., '98, p. 1113; Franchises, '07, p. 634. Ratified by the electors of the town on the first Tuesday in April, 1888. 20 Colo., 253. This was an exclusive, twenty-five year franchise. For some reason it was not used and a new one, likewise exclusive, was granted on January 13, 1888, reducing the franchise term to twenty years from December 24, 1886, including the rental prices for hydrants and specifying that the company should "furnish a sufficient quantity of good wholesome water."

[4] Comp. Ords., '98, p. 787; Franchises, '07, p. 632.

This company and its subsidiaries had persistently clung to nearby streams for their water supply. Hence the city's consumption was ever encroaching upon the company's supply of water, especially in times of drought, and the water furnished was ever running greater danger of pollution from new resident sections and increasing danger of depletion by irrigation. A decided demand sprang up in the city for mountain water in lieu of this kind of water which was, said a petitioner to the Supreme Court,[3] "so vile as to preclude the possibility of a comfortable bath" and wholly unfit for domestic purposes. Dissensions arose within the company over the question of a new source for water, and over the question of control, and finally a minority in the company, chief of whom where D. H. Moffat and W. S. Cheesman, issued an ultimatum that they should be given control, or their shares purchased for $450,000. To their confusion the latter proposition was accepted and their connection with the company was thus severed. Thereupon, posing as martyrs for the cause of pure mountain water, and arousing a favorable public opinion by every other possible means, they organized, on March 30, 1889, The Citizens' Water Company, with a capital of $3,000,000. Moffat named himself President and his First National Bank Treasurer.[1] The company at once constructed a separate water system, which brought water from the mouth of the Platte Canon, in the foothills, twenty-two miles away, and by autumn had ready for service a system with a daily capacity of 8,400,000 gallons. On November 22,[2] Denver's council granted the company its needed franchise. As the company was then playing for public favor, it wrote into its franchise many clauses that furthered and protected the interests of the public. This franchise, obtained for the city through the existence of a competitor, and not through any effort on the part of the city aldermen, was the first ever granted in the city that even measurably safeguarded the people's interests. When the Citizen's Company at last drove out its competitor, it abandoned this franchise for the less liberal one owned by the Denver Water Company. The franchise specificially denied that it was meant to be exclusive, though later abandoned for one that was; the city was given the right to purchase the plant "at any time" after May 1, 1891;[3] existing rates were made the maximum rates; and extensions were required.[4] Franchises were likewise secured from the nearby towns of Barnum,[5] South Denver,[6] Valverde,[7] and Colfax.[8]

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[1] September 18, 1889. A twenty-year franchise. It required the company to furnish "good wholesome water for domestic purposes" at the minimum rate charged and collected by any water companies supplying the city of Denver for the corresponding year. Comp. Ords., '98, p. 1057. Franchises, '07, p. 737.

[2] In 1889. Its officials in that year were Dennis Sullivan, President; J. H. Archer, Vice-President; J. A. Thatcher, Treasurer; Francis P. McManus, Secretary.

[3] 20 Colo., 262.

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[1] The directors were: D. H. Moffat, E. F. Hallack, Richard Holme, G. W. Clayton, W. S. Cheesman, C. P. Allen, and W. B. Mills.

[2] 1889. Comp. Ords., '98, p. 826; Franchises, '07, p. 642.

[3] The valuation to be determined by "three disinterested parties, one to be selected by the company, one by the city of Denver, the two to select the third."

[4] Consolidation or pooling with any other company was made to work a forfeiture of the franchise. The company was to safeguard the city against all damages arising from exclusive franchises given to other companies.

[5] March 6, 1890. "At the same rate of charge that it shall furnish water to the inhabitants of the city of Denver for like purposes." Comp. Ords., '98, p. 1063; Franchises, '07, p. 653.

With these franchise rights, the Citizens' Company entered into virile cut throat competition with its rival. For two years it abolished all charges for water, giving it away to all comers. Its competitor followed, charging nominal sums only.[1] By 1890 the Citizens' Company was supplying one third of the water consumers of Denver. Its next move was to encroach upon the exclusive franchise granted by Highlands to The Beaver Brook Company. On March 4,[2] the Citizens' Company asked the Trustees of Highlands to grant it the right to build a main through their town. This the trustees granted but specifically denied to the company all right to furnish water to the town's inhabitants. The next year the company sought to obtain a franchise from Highlands for furnishing water for domestic purposes to the citizens thereof. But the District Court, upon petition of the company holding the exclusive franchise, enjoined the trustees from issuing a franchise to another company. Thereupon[3] the determined trustees granted to Highland residents power to dig trenches in the streets "for the purpose of discovering the water mains of the said Citizens' Company." These mains were soon "discovered" and pipes connected. The District Court ordered these pipes to be disconnected. Appeal was taken to the Supreme Court where the decision

[6] March 11, 1890. Same provisions as to rates. Comp. Ords., '98, p. 1175; Franchises, '07, pp. 659-60. Amended with specific terms as to quality of water on November 7, 1892. Comp. Ords., '98, p. 1186.

[7] May 26, 1890. Franchises, '07, p. 661.

[8] September 16, 1891. Comp. Ords., '98, p. 1082; Franchises, '07, p. 654.

[1] Save in Barnum where it held a monopoly and secured from the town council a release from its contract to furnish water at the minimum rate charged in Denver and substituted a clause that it should never charge less than 60 per cent. of its former rates. Franchises, '07, p. 743.

[2] 1890. Comp. Ords., '98, p. 1123; Franchises, '07, p. 657.

[3] April 13, 1891.

of the lower court was reversed.[1] The Citizens' Company had in the meantime been busying itself with extensions elsewhere and with improving its equipment.[2] The combined maximum daily capacity of both competing corporations now totaled over 50,000,000 gallons.

In 1889, the same year that the street railways began to further their ends through the city's council, the water companies likewise entrenched themselves in the city's legislature, never again to release their influence therein.

The Denver Water Company asked for a new franchise. The Citizens' Company tried to prevent the council from passing it but it was adopted early in 1890. Mayor Londoern vetoed it. The council promptly passed it over his veto.[3] Charter amendments affecting the water situation were next proposed in the state legislature and the warring corporations spent $10,000 in legislative bribery.[4]

The provisions of this franchise for the Denver Water Company are of import because this was the franchise under which the Citizens' Company later operated (in lieu of its own all too liberal franchise above described); because many of its provisions have been and are the pretext for many a long fight in state and national courts; and because it is under this franchise that the company is still operating. The franchise was limited to twenty years and its privileges confined to weary pages of streets. The city went on to agree, however, whenever it should be requested to do so, to extend these privileges to any street not named in the franchise. One section of the franchise averred that, as the company was "charged with a public duty, the said city shall pass such ordinances" as were necessary for the protection of the company's water supply operations, and property. What "public duties" did the franchise require the company to perform in return for its rights and privileges? What social interests were safeguarded? The company agreed, "whenever so ordered to do by ordinance duly passed," to extend its mains upon any street where no main existed, *provided* that the city order a fire hydrant "*for every four hundred feet of extension at least*, or fractional part thereof." For its hydrants the city had agreed to pay goodly sums.[1] Not only was no money return asked from the company but the city actually agreed to double the number of its hydrants and thus *double the amount it paid the company*.[2] By the end of the period the city was annually paying to the company about $55,000; the company was giving the city free water for its *city hall*, its *fire department* and for *sprinkling*[3] purposes. The water supply was to be "of a quality as good and fit for private consumption as that shown by the analysis made . . . by Professor Joseph A. Sewall, in the month of August, 1889." This standard said nothing about improvement of quality, prevention of germ pollution, or city inspection and was, therefore, almost wholly valueless. Existing rates and regulations were made the rates and regulations of the future with no power in the city to amend or annul them. And finally, in response to the rapidly growing demand for municipal ownership of the city's water supply, a meaningless, unenforceable clause was inserted, purporting to give to Denver "all the advantages of municipal ownership with none of its disadvantages." By this clause the company could be required, after it had collected its existing rates for five years more, "to fix schedule rates for private consumers equivalent to the average rate prevailing in the cities of Chicago, St. Louis, and Cincinnati," all of which cities owned their own water systems. This clause, within the following decade, was the center of much municipal and judicial discussion and interpretation. Another clause, now of vital import, provided that, at the expiration of the twenty year period, "in case the city shall then elect so to do, the said works may be purchased by the said city" at a price agreed upon between the city and company or fixed upon by five arbitrators, two to be chosen by the city, two by the company, these four to choose the fifth.

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[1] Lewis v. Denver City Water Works Company, 19 Colo., 236; Wood v. Denver City Water Works Co., 20 Colo., 253. The Supreme Court held that the legislature of a town could not be enjoined from passing such an act and that relief could be secured only by due procedure after the act had been passed.

[2] In 1892 a 16,000,000 gallon (daily) filter was installed and an immense reservoir, Marston Lake, was constructed.

[3] On April 10.

[4] J. Warner Mills in Arena, 34; 387.

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[1] Thirty-five dollars per hydrant for the first ten years and twenty-five dollars per hydrant for the last ten years.

[2] The number was increased from 493 to 1,000. By 1892, 1,565 were in use, the annual cost of which to the city was $54,775.

[3] "Through special hydrants to be set for that purpose, not exceeding four hundred in number."

With this franchise The Denver Water Company entered all the more vigorously into the fight. On January 15, 1890, it borrowed $2,500,000. On November 12 following added strategic advantage was sought by consolidating the Denver Water Company and its three auxiliaries, the Domestic, Mountain, and Beaver Brook Water Companies, into The Denver City Water Works Company with an authorized capital of $7,000,000. More money was then borrowed. Four months later, March 31, 1891, this company was reincorporated as The American Water Works Company of New Jersey and its capital increased to $13,000,000.[1] More free water, then discouragement, then intrigues and treachery, and finally the company defaulted on its interest and, on February 2, 1892, went into the hands of a receiver. Two more years of intrigue, and the New Jersey Company capitulated, leaving its rival, now the Denver Union Water Company by name, triumphant in its struggle for a monopoly on Denver's water supply.

The Denver Gas Company, which in 1877 was operating

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[1] See J. Warner Mill's account of this, detailed and accurate, in the *Arena*, Vol. 34. See also Venner v. Denver Union Water Company, 15 Colo., App. 495, and American Water Works Co. v. Farmers Loan and Trust Co., 20 Colo., 203.

9½ miles of gas mains and was lighting the city, continued to supply gas through all this period. As its franchise was exclusive and perpetual, it asked for no new franchise. But it was compelled to lower rates by competition. Its first competitor was The United Gas Improvement Company of Pennsylvania. In 1883[1] this company secured from the city a perpetual franchise by which it agreed to furnish gas of 20 candle power to private consumers at $2 per 1,000 cu. ft. (the Denver Gas Company had been charging $3), and to light the city's streets, if required, for $27 per lamp annually ($13 less than the Denver company was receiving). The company, as were all succeeding companies, was required to indemnify the city agianst all costs and expenses arising out of any claims by the original company because of its exclusive franchise. On April 11, 1887, the council endowed a new competitor, The People's Gas Light Company, with franchise rights,[2] likewise unlimited as to time. The company agreed not to charge over $1.50 per 1,000 cu. ft. for its gas. The city in this franchise, the only franchise in which such a clause was inserted in all this period, reserved to itself power, "at any time after fifteen years from the publication" of the ordinance to fix gas rates. The advantages of this clause and of other salient clauses in other franchises were soon annulled, however. Late in the period the gas companies abandoned all competition, potential or actual, and combined into a new corporation, The Denver Consolidated Gas Company. To this corporation the city council of 1891 granted a franchise[3] which said not a word as to rates, not a word as to quality, not a word in the interest of the consumers; it surrendered, that is, all the many advantages that had accrued to the city as a result of competition; it magnanimously endowed the company with rights in the city's streets and asked for nothing in return.

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[1] March 28. Amended August 11, 1884. Franchises, '07, pp. 194 and 197. Comp. Ords., '98, pp. 762 and 766. The company obligated itself not to buy or sell to The Denver Gas Company for at least ten years. The council could compel main extensions until its mains "were equal to the mains of The Denver Gas Company."

[2] Comp. Ords., '98, pp. 783 and 800; Franchises, '07, pp. 189 and 192.

[3] November 16. Comp. Ords., '98, p. 921.

This was the period of embryonic electric light companies. No such companies existed before and hence the city had an opportunity, in a field not encumbered by custom, to safeguard its electric lighting for all future periods, an opportunity to which it paid no heed. Electric lighting had no sooner been put upon a commercial basis than, in March of 1880, the Colorado Edison Electric Light Company was organized, to capitalize the city's future electric lighting needs. To this company, on February 3 of the year following, the council granted[1] not only an unlimited franchise but a general franchise to all comers, in a resolution which provided solely "that permission be granted to any company desiring to supply the city with electric light, to erect posts, and such other appliances as may be necessary to successfully carry on their business; Provided that said companies do not obstruct the public thoroughfares." The resolution was adopted by a vote of seven to four.[2] This is an excellent example of the irresponsible manner in which the town of the nineteenth century bound the city of the twentieth. The only pre-requisite to a gratuitous grant of the city's streets was the possibility that the public utility might enhance the town's immediate prospects. This company at once installed its plant for incandescent lights. A company was organized on May 30, 1881, The Denver Electric Light Company, to exploit the arc system for high power illumination. After two years of potential competition, these two companies merged into "The Denver Consolidated Electric Company" with a capital of $1,000,000. The company was given the contract for lighting the city.[3] This company's monopoly over electric lighting was maintained unquestioned until the boom of the latter part of the period was well under way when, for a time, independent companies kept up a desultory competition. One of these was The Denver Light, Heat and Power Company, to which the city granted[1] a franchise on August 13, 1887, only to confirm its absorption by the Consolidated company two years later.[2] In 1887 the city again broke all precedents by requiring a company, The Denver Electric Illuminating Company, to pay $5,000 to the city for its franchise.[3] The company began business in October of 1888.[4] For a like sum, two years later, the Western Electric Construction Company was given rights in specified streets.[5] But these companies all succumbed to the ever present advantages of monopoly and by the end of the period all had been merged into The Denver Consolidated Electric Company. There was now competition only between the gas company and the electric company.

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[1] Franchises, '07, p. 107.

[2] A more formal grant with the same import was made on March 24, 1883. Comp. Ords., '98, p. 762.

[3] For lighting the suburbs by the tower system and for lighting all the city, after 1885, when the city's contract with the gas company expired.

The same spirit of present gain regardless of future consequences ruled Denver in her grant to other public service corporations. In December of 1878 an agent of the Bell Telephone Company[6] arrived in the city and asked the council "for permission to erect a general system of telephone." On January 3, 1879 "the privilege asked for" was granted,[7] the council engaged "seven telephone boxes . . . for one year at the monthly rental of two dollars per box," and granted the company the right to use "any poles now owned by the city and used for fire alarm telegraphs."[1] The Bell system was ready for operation on February 20. The city is just now groping for a way of controlling it. The next year a competitive concern, The Colorado Edison and Telephone Company, asked for and received a similar franchise.[2] For a time, real competition seemed possible, but this the Bell Company soon thwarted through an auxiliary company, the Colorado Telephone Company,[3] which secured and has maintained a monopoly on the city's telephone service. In 1889 this company was given a definite twenty-year franchise for underground service in specified streets, with no reservations of any kind, save that the company should reserve sufficient space in its underground conduits for such telephone wires as might then or later belong to the fire and police departments of the city.[4] All of the railroads entering the city received street rights and privileges on their own terms. Only once were they asked to make any compensation and that was in the nature of an elevated track over certain streets. "The streets,[5] alleys, and avenues" of the city were given to the Denver[6] Steam Heating Company "for the purpose of conveying and furnishing steam for heating or other purposes." Street privileges were likewise accorded to numerous other concerns.[7] To all were granted the same unrestrained franchise privileges.

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[1] Comp. Ords., '98, pp. 788 and 803; Franchises, '07, pp. 7 and 105.

[2] July 8, 1889.

[3] Comp. Ords., '98, p. 779; Franchises, '07, p. 46.

[4] Its plant had a capacity of 600 arc and 7,000 incandescent lights, besides power for manufacturing purposes. It invested $100,000. Its President was C. H. White: its Vice-president, Walter Cool; Secretary, W. H. Hinman.

[5] September 10, 1889. On June 25, 1890, the company was given the contract for lighting the city. Franchises, '07, pp. 201, 212, and 222.

[6] F. A. Vaille.

[7] "Subject to such ordinances as may hereafter be passed by the council for the government of telephone lines." Franchises, '07, p. 599.

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[1] The company to replace them as they needed replacing.

[2] August 7, 1879. Franchises, '07, p. 600.

[3] Incorporated January 1, 1881. By 1884 it had in operation 2,000 miles of telephone lines.

[4] July 20, 1889. Franchises, '07, p. 601.

[5] Comp. Ords., '98, p. 760.

[6] January 5, 1880. Franchises, '07, p. 349.

[7] The Postal Telegraph Cable Company, on July 14, 1890. Franchises, '07, p. 798. The Wyoming and Denver Oil Pipe Line Company; The Platte and Denver Ditch and Milling Company; The Denver Petroleum Company; and The American District Telegraph Company. To this last named company a franchise was granted on April 17, 1890, legalizing its local messenger service which the company had been carrying on for seven years without franchise rights. The only conditions

The oft repeated principles that public service corporations are of necessity monopolies and that competition cannot be a regulative force in fixing their rates and securing proper service, find ample vindication in the history of Denver's public utilities during this period. Here was a city that arose to cityhood in a decade, and, full-convinced of its future as a metropolis, company after company entered its every public service. In every field there was for a time real and vital competition. But this competition was directed not toward improving the service but toward securing a monopoly; it was destructive, not regulative. Every distinct service that the city needed was soon under the absolute control of one corporation. The franchises granted to these corporations were, to say the least, adapted only to a regime of virile competition; they did not constitute in themselves a restraining or regulating force, in any sense of the word. When competition ceased, the only regulative force was the desire of maximum returns, under which the monopoly would take care only not to outrage public opinion. The social interests of the city had been left unprotected and unprotectable.

A second characteristic of this history is that out of the multitude of franchises granted, none secured pecuniary return to the city and none gave adequate protection to public needs. The few exceptions to the rule of no compensation have been noted above. Two gas companies were required to pay $5,000 each for their franchises, and then they merged into a gas monopoly. From the merged concern no return whatsoever was asked. The street railway franchises required the street railways to pave a small portion of their street, when the city paved the rest, but no paving was required of such railways during all the period. For a time, a car tax was levied, but this was abandoned. This want

attached to the grant were that the company should supply free messenger boxes in the city hall and in the fire stations. The franchise is now held by the Colorado Telephone Company.

of pecuniary returns for highly valuable privileges may be condoned on the grounds that the growing city wanted improvements at any cost, but this can scarcely condone the want of foresight in so binding the city of the future that it could never get reasonable remuneration. Nor can it condone the total want of adequate protection to the social needs of the city. The city's own future demanded that its public utilities should be regulated in the interests of the many, and not that the many be manipulated in the interests of the few. Some proper reservations were offered gratuitously by competing concerns in an attempt to curry public favor, but these were soon lost through new franchises that did not contain them. The councils of 1889 and thereafter especially were wantonly reckless of the public weal and became mere registries where the public utility companies recorded such franchises as seemed best to further their ends. Not during all the period was there any attempt made to glean public advantages from franchise-seeking corporations; and, after 1889, social responsibility seems wholly wanting in all the public utility activities of the city's aldermen.

The chief obstacles to changing the terms of these franchises granted without any other than a nominal consent of the electors, as expressed by those that misrepresented them in the council, was the federal courts. And these courts assumed most of their powers from a constitutional amendment that was passed for an entirely different purpose.

During all this period, but one saving statute was passed and that came from the state legislature, the Robber Seventh at that.[1] It provided that "All franchises or privileges hereafter granted by the city of Denver to corporations or individuals, shall be limited to twenty years from the granting of the same, and such franchises and privileges so granted shall plainly specify on what particular streets, alleys or avenues the same shall apply to, and no franchises or privileges shall hereafter be granted by the city of Denver in general terms as to apply to the city generally." The advantages of devoting pages of public printing to the names of streets are not easily discernible but the statute did forbid the city to do what it had all too often done—grant perpetual franchises. All franchises granted after 1889, without exception, were specifically limited to twenty years. Before another decade had passed, every inhabitant of the city, save perchance the owners of the privileges, knew the social hardships that a perpetual franchise can inflict.

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[1] Laws, 1889, p. 130. Amendment to Sec. 23 of Charter of 1885.

The latter years of the period portended a kind of government that was not provided for in the city's organic law—a government by and for public utilities. The electorate had not as yet awakened to the fact that what they had thought to be the machinery of government was tending to become but the registering machinery for the actual government, their public utilities, and that the officers they had chosen were the tools of the city's actual government—were the governed, not the governing. Control of the city council meant money and freedom to the public utility that could control it. Without an alert electorate such control was inevitable. A small minority of Denver's leading citizens, composed for the most part of the men prominent in the city's earliest industrial history, men who had promoted the railroads and made a city possible, were now masters of the city's public utilities, and, as such, masters to an undue extent of her city government.

# CHAPTER V.

## 1893-1901.

## DECENTRALIZED GOVERNMENT AND THE MOVEMENT FOR HOME RULE.

### THE SOCIAL AND INDUSTRIAL BACKGROUND.

This period was one of industrial stagnation and depression throughout all Colorado, and especially in Denver. It opened with the monetary panic of 1893. Said the President of the Chamber of Commerce early in 1895:[1] "In 1892, . . . the greatest prosperity in the history of the city was attained. . . . The year 1893 opened with less promise. . . . In the distance the clouds of financial distress were arising. . . . Then the sky darkened. . . . Gathering force (the storm) descended as a cyclone. Banks suspended, gold advanced, business was prostrated." On July 17, three Denver banks closed, six more closed on the next day, three more on the day following, and before September 1, two or three more had closed their doors, fifteen in all.[2] There was the same collapse in real estate values and in every business activity Denver's buoyant spirit was quelled. "Public spirit in this town," said a President of the Chamber of Commerce five years after the panic, "is as dead as Lot's wife after she was turned into a pillar of salt."

In the mining industry, the significant result of the panic was a diminution in the state's silver output and an increase in its gold output. The coin value of the silver produced in 1892 was $31,478,972; in 1897 it was $27,178,475; in 1900 it was $26,998,928. Is it any marvel that the state advocated a greater coinage use of silver? Within a month after the silver mines and other industrial concerns of the state had been closed by the panic, the mountains and canyons of the state were dotted with prospectors looking, because of the slump in silver prices, primarily for gold. No less than fifty gold mining camps in twenty counties was the result of their work. The most phenomenal discoveries were those of the Cripple Creek district. The output of gold increased by leaps and bounds; from a coin value of $5,539,021 in 1892 to $7,487,071 in 1893, to $15,013,434 in 1895, and to $28,869,392 in 1900, a fivefold increase. Colorado now took first rank as a gold producing state. The output of coal, iron, lead,[1] and copper[2] remained about constant. On the whole, despite the marked increase in gold mining, there was not the usual forward movement in the mining industries of the state.

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[1] Report of the Chamber of Commerce for 1894, p. 2.

[2] Smiley, p. 914.

The constant factor in the state's industrial life was agriculture. In 1895, reported the Secretary of the State Board of Agriculture, the state's 2,100,000 acres of irrigated land yielded products valued at $29,400,000. The value of the yield of the unirrigated lands was estimated at $1,500,000. The development most characteristic of this period was the rapid increase in orchard products in the western part of the state and the beginning of the beet sugar industry in the eastern part. The fruit and orchard industry of western Colorado started upon the removal of the Ute Indians in 1882. It enjoyed a steady and rapid growth during this period. The development of the beet sugar industry in eastern Colorado was due to the initiative of the Denver Chamber of Commerce. Early in 1897, the Chamber "decided[3] to see what could be done towards developing this promising industry." Seed was secured and distributed to agencies is disturbed. While the capitalistic group did not have its wonted monopoly on the legislature, it was sufficiently strong, in all these legislatures, to protect and forward its every interest. For instance, the Legislature of 1897, in which there were in both Houses but sixteen standpat Republicans, instructed Colorado's national Senators and Representatives "to support the action of the lead producers in this country" in their attempt to get into the Dingley Tariff a duty on lead of "one and a half cents per pound." The state militia was several times called out to protect property interests during the times of the strikes.[1] The Legislature of 1893 repealed, over a Populist Governor's vote, the railroad commission law, and no effective railroad commission law has since been passed, though many have been introduced. Effective taxation[2] and corporation laws were, and have since been, likewise shelved.

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[1] Lead output for 1895 was valued at $3,047,590; in 1897 at $2,731,032; 1898, $4,275,000.

[2] The copper output in 1895 was valued at $1,065,000; in 1897 at $960,917; 1898, $1,500,000.

[3] Report of Denver Chamber of Commerce for 1898, pp. 19, 28 and 29.

It also has to be said that the passage of favorable legislation and the prevention of unfavorable legislation was secured through dominating, in ways diverse and inimitable, the party machinery of both the major parties, so that it made no difference in reality what party was in power. All the party candidates, not excepting, it is held, the judiciary, were named by the same capitalistic group interests that determined intra-state freight rates, the price of coal and fuel, banking rates and privileges, the cost of Denver's every public service, whether water, gas, light, or street railway service, and the price that should be paid for a ballot. In speaking before the National Municipal League in 1894 Mr. Platt Rogers, the city's mayor from 1891 to 1893, described the pre-existing political situation as follows: "The open and shameless bribery of the voters, and the fearless prostitution of the ballot box have scarcely been equalled elsewhere. The police force came to be looked upon as a political force. In the performance of its duties as the conserver of the ambition of the political bosses, the honest citizen found it extremely hazardous at times to attempt to vote under his own name. Ballot boxes were spirited away, returns altered and the will of the people thoroughly negatived." It appears that this condition was not so intolerable during the few years immediately following the panic of 1893, but it returned with all its rottenness in the municipal election of 1899, when, at the behest of the city's public service corporations the "big mitt," the famous ballot-stuffing brigade, was organized.

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[1] The Legislatures of 1895 and 1897 appropriated $75,000 and $225,000, respectively, for state debts incurred in calling out the militia.

[2] The Legislature of 1901 submitted to the people an amendment to the constitution adopting the Australian tax system. It was defeated.

Such was the political situation that determined the kind and character of legislation that was to be enacted for Denver and her government. No less than eighteen[1] distinct special acts pertaining to Denver were passed. None of these, save one, the charter of 1893, was of grave importance, and the city would have been better off, as will be pointed out later, had it never been passed. Legislation as to matters of little import the city could secure, but no efficient legislation could be secured if it menaced the position of party or corporation.

A few new powers were granted to the city. The charter of 1893,[2] for instance, gave to the city plenary powers of regulation and inspection over plumbing, gas and electric fittings, conduits, and apparatus; increased the city's nuisance powers,[3] extended its power to enforce quarantine laws to ten[4] miles beyond the city's limits.[5] In 1901[6] Denver was

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[1] Laws, 1893, pp. 131, 287, and 451; Laws, 1895, pp. 133, 240, 244, 249; 1897, pp. 148 and 272; 1899, p. 371; 1901, pp. 97, 162, 166, 167, 364, 379, 386, and 393.

[2] Laws, 1893, p. 131. Approved April 7.

[3] To include the regulation or suppression of fireworks, and steam whistles, and to regulate the width of tires of vehicles used on the streets.

[4] Formerly five miles.

[5] In 1895 the city was denied power to licence the sale of any of the state's food products.

[6] Laws, 1901, p. 364.

2,300 farmers in thirty-one different counties.[1] The Chamber offered to join the county authorities in offering premiums. Nine counties availed themselves of the offer.[2] It employed agents to instruct the farmers as to the proper methods of beet culture. The results were most gratifying, and the industry remained a valuable adjunct to the wealth-producing agencies of the state. During this period also, alfalfa became a leading crop. The crop of 1894 alone was valued at $10,000,000. The horticultural and agricultural interests of the state were thus in a stable and growing condition. This was the one constant factor in the state's industrial life. Without it the industrial depression in Denver, bad as it was, would have been infinitely worse.

The relatively static industrial situation in the state and in Denver is clearly reflected in the census reports. The population of the state in 1900 was 539,700, an increase, during the decade, of but 30.7 per cent.; the increase for the preceding decade was 112.1 per cent Denver's population, 133,859, had increased during this decade but 25.4 per cent.; in the decade preceding it had increased 199.5 per cent. The urban population of the state as a whole increased 31.8 per cent., 6.4 per cent. more than the increase in Denver. Denver, in growth, fell behind the state at large and other cities in the state. Moreover, the increase in Denver's population was due almost, if not entirely, to the annexation of contiguous towns to the city, and was not due to actual growth in Denver proper. The city's population actually decreased during 1893 and 1894. That the state was not attracting immigrants is revealed by the fact that but 6.2 per cent. of the state's population in 1900 were males of the age of twenty-one and over, as compared with 67.2 per cent. in 1890, and by the fact that but 16.9 per cent. of the population of 1900 was foreign-born as compared with 20.38 per cent. in 1890. In 1900 Denver ranked, as she did in 1890, twenty-fifth in size among the cities of the United States. But 358 miles of railroad were constructed from 1890 to 1900.[1] When it is recalled that the first two years of the decade were especially good ones, and that almost all the growth depicted by the statistics above occurred during these years, the static industrial situation in Denver will be all the better appreciated.

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[1] Distribution was made through the Agricultural College, to avoid payment of postage.

[2] The Chamber gave $50 toward premiums to any county that would offer $100 for the same purpose

The following tables,[2] which give the amount of business and the manufacturing output of Denver for typical years, tell the same story of stagnation in business and reveal but slow growth in manufactures.

BUSINESS.

| Year. | Number of Establishments. | Employees. | Paid in Wages. | Retail Sales. | Wholesale Sales. |
|---|---|---|---|---|---|
| 1894 | 2,104 | 10,613 | $6,015,466 | $22,822,867 | $25,261,973 |
| 1895 | 3,108 | 14,266 | $7,517,300 | 22,821,100 | 19,561,500 |

MANUFACTURES.

| Year. | Number of Establishments. | Employees. | Paid in Wages. | Value of Product. |
|---|---|---|---|---|
| 1890 | 799 | 12,642 | $8,368,133 | $42,034,677 |
| 1894 | 1,086 | 9,879 | 5,421,566 | 40,238,730 |
| 1895 | 1,512 | 12,035 | 6,594,265 | 48,186,090[3] |

The Chamber still voiced the common complaint that the slight growth in manufacturing was due to "the lack of properly adjusted freight rates,"[4] a statement that contained much truth.

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[1] The total mileage in 1900 was 4,649 miles.

[2] Compiled from the Chamber's Reports for 1894 and 1895.

[3] The smelters of the city produced $11,010,238.96 of this value as follows: The Boston & Colorado Smelting Company, $2,322,860.05; The Omaha & Grant Smelting & Refining Company, $4,135,665.00; The Globe Smelting & Refining Company, $4,541,713.91. Report of Chamber for 1895, p. 20.

[4] Ibid., p. 16.

The appended table,[1] giving the assessed valuation of the city from 1888 to 1901, inclusive, shows that the assessed valuation of the city was several million dollars less at the end than it was at the beginning of the period. This decrease was due partly to the execrable tax laws then in existence, and partly to the fact that "hard times" made taxes harder to pay, and hence values, especially real estate values,[2] were put down as low as possible, personal property being made to bear an ever larger burden of taxation. The assessments did not purport to represent over "one-fourth the cash-value,"[3] and were probably even less than that.[4] Part of the decrease was due also to the fact that the state board of equalization, newly vested with this power, had placed lower values upon the property of railroad, telegraph, and telephone companies than had been placed upon them by the county assessor of Arapahoe County. Thus, property that the Arapahoe assessor valued, on a fifty per cent. basis,

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[1] ASSESSED VALUATION OF DENVER, 1888 TO 1901.

| Year. | Assessed Valuation. | Year. | Assessed Valuation. |
|---|---|---|---|
| 1888 | $41,643,935 | 1895 | $67,851,815 |
| 1889 | 51,699 515 | 1896 | 72,748,660 |
| 1890 | 66,624,560 | 1897 | 69,948,420 |
| 1891 | 70,708,780 | 1898 | 61,443,210 |
| 1892 | 73,550,415 | 1899 | 58,425,000 |
| 1893 | 76,349,420 | 1900 | 57,537,225 |
| 1894 | 70,657,130 | 1901 | 68,000,000 |

[2] THE RATIO OF ASSESSMENTS MADE AGAINST PERSONAL PROPERTY COMPARED WITH ASSESSMENTS MADE AGAINST REAL ESTATE. 1883–1898.

| 1893 | 1894 | 1895 | 1896 | 1897 | 1898 |
|---|---|---|---|---|---|
| 14 26 | 14.22 | 16.07 | 27.36 | 33.89 | 39.84 |

(From Report of the County Assessor of Arapahoe County for 1898.)

[3] Report of Chamber for 1894, p. 22.

[4] A special effort was made in 1901 to make a more equitable assessment. The result was, an indicated in the table, an increase of over $10,000,000 in the assessed value.

at $3,724,840, the state board assessed at $1,828,608.[1] Yet after all these allowances are made, the fact remains that the assessed valuation of the city was nearly $19,000,000 less in 1900 than it was in 1893, a fact that again mirrors the depressed industrial situation in Denver.

At best, the brilliant future of the city as pictured in the period preceding, was now thought of only as a distant possibility. To be sure, persistent efforts were kept up to make the city grow. The Chamber of Commerce, for instance, in 1895, made a series of excursions into different parts of the state in order "to knit closer the bonds of friendship between the residents of the city and the state." The citizenry of Denver knew full well that the industrial life of their city depended almost wholly upon the industrial activities of the state. Said the Chamber's President in 1895: "Our citizens must reach out and help build up and develop the inexhaustible natural resources of this unrivaled commonwealth." In the succeeding period this spirit bore splendid fruitage. But it could not make of the period under discussion any other than a period of deficit.

## THE CITY GOVERNMENT.

As legislation upon what Denver as a municipality could do and how she could govern herself, depended upon the state legislature, and as the activities of the state legislature were controlled by political parties, in other words, as the state political party was the actual government of Denver, it is necessary, first of all, to get at the political situation that was particularly characteristic of this period.

Colorado was naturally Republican. Many of her industrial interests could best be furthered by close alliance with the political forces that were enthroned in the nation's Congress. Then, too, her industries were all such as to demand capital in large amounts. Hence it was easy to suppress a public opinion that would favor a departure in national legislation or in local policy on the grounds that it would "frighten capital out of the state." However, three national movements combined with local needs to break up old party alignments and bring new party groups to the fore. Each was representative of new group interests. In the first place, Colorado's silver mines were valuable. "Free silver" would enhance their value. The national democratic party frankly advocated free silver, and hence brought into its ranks many thousands of voters. The free silver movement in the state was so strong that the state Republican organization had to pay heed to it. No less than four factions arose in the Republican party, each with its own solution of the silver problem. These were the regular Republicans, the Silver Republicans the National Silverites and the Teller Silver Republicans, each of which became strong enough to elect representatives to the legislature, though none of them succeeded in uniting the Republicans sufficiently to dominate again both houses of the legislature. In the second place, it was during this period that the great Cripple Creek strikes occurred, when the governor had so often to call out the militia to preserve order This conflict developed class consciousness, and parties of protest arose, chief of which were the Socialists and the Single-Taxers, to represent radical labor views. And finally, the tenets of the Populist party appealed to the farmers of the state, as they did to farmers everywhere. Every party group, the Democrats, the Republicans, the Silver Republicans, the National Silver Republicans, the Socialists, the Single Tax devotees, and the Populists, eight in number, grew strong enough to elect one or more representatives to the state legislature. This the single taxers and socialists accomplished only by fusion, however.[1] The strength of each of these groups in each branch of the legislature, the political constituency of the Arapahoe delegation in each branch, and the political complexion of the legislature and the Arapahoe delegation as a whole, for the legislative sessions of this period, are given in the table on pages 168 and 169.

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[1] Report of Arapahoe Assessor for 1898, p. 4.

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[1] Thus the Single Taxer was the Hon. James W. Bucklin of Grand Junction. He writes that, while elected on a "fusion" ticket with the Populists and Democrats, he was elected as an avowed Single Taxer. He it was that framed the proposed constitutional amendment applying single tax principles to Colorado.

The striking feature revealed by this table is that there was no single dominant party during all the period. Not only was no party continuously in power but no party at any one session had a majority in both branches of the legislature. Only by fusion, coalition, "understandings," combinations, and vote-trading could the average measure be passed. In the legislature were many party groups instead of two. The balance of power was so evenly divided that allied groups could secure all they wanted, while an unsupported group could secure nothing. Denver, unhappily, was in the latter class. Legislation by group coalition, so characteristic of European legislatures, is so uncommon in the United States, and it was fraught with such far-reaching results for Denver, that the character of the legislation resulting therefrom must be noted somewhat at length.

What differentiates this period from all others in the legislative history of the state is the amount of favorable labor legislation that was passed. For the first time, the state's wage-earners received attentive hearing. The first legislature of the period[1] adopted the eight-hour day for public work, and decreed that all the employees of cities with a population of over 100,000, Denver, in other words, should be allowed a half holiday on every Saturday afternoon. The Legislature of 1899[2] required the eight-hour day for all laborers in mines, smelting and reduction works. The Supreme Court declared unconstitutional an act passed by this same Legislature adopting the eight-hour day for all the laborers in the state, whereupon the succeeding Legislature

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[1] Laws, 1893, p. 287.

[2] It also memorialized Congress to adopt the eight-hour day for all national employees.

THE STRENGTH OF THE VARIOUS POLITICAL PARTIES IN EACH BRANCH OF THE STATE LEGISLATURE FROM 1893 TO 1901, INCLUSIVE.

| The Legislatures. | The Senate. | | The House. | | The Parties Dominant in Each Branch and in the Arapahoe Delegations. |
|---|---|---|---|---|---|
| | Composed of | From Arapahoe County. | Composed of | From Arapahoe County. | |
| 1893 | 15 Republicans.<br>8 Democrats.<br>12 Populists. | 5 Republicans.<br>1 Democrat.<br>1 Populist. | 32 Republicans.<br>5 Democrats.<br>27 Populists. | 10 Republicans.<br>—<br>2 Populists. | The Senate Democratic, the House Republican, and the Governor a Populist. Arapahoe delegations, Republican |
| 1895 | 16 Republicans.<br>2 Democrats.<br>1 Dem. Pop.<br>16 Populists. | 6 Republicans.<br>—<br>—<br>1 Populist. | 43 Republicans.<br>1 Democrat.<br>—<br>21 Populists. | 13 Republicans.<br>—<br>—<br>— | In Senate, coalitions necessary. House, Republican. Arapahoe delegations, Republican. |
| 1897 | 6 Republicans.<br>8 Silver Republicans.<br>5 National Silvers.<br>5 Democrats.<br>11 Populists. | 2 Republicans.<br>1 Silver Republican.<br>2 National Silvers.<br>—<br>2 Populists. | 10 Republicans.<br>2 Silver Republicans.<br>7 National. Silvers.<br>20 Democrats.<br>23 Populists.<br>1 Non-partisan.<br>1 Single tax.<br>1 Socialist. | 1 Republican.<br>—<br>5 National Silvers.<br>—<br>6 Populists.<br>1 Non-partisan.<br>—<br>— | No single party dominant in either branch or in either Arapahoe delegation. Group coalitions necessary. |
| 1899 | 2 Republicans.<br>3 Silver Republicans.<br>11 Teller Republicans. | 1 Republican.<br>—<br>3 Teller Republicans. | 6 Republicans.<br>—<br>17 Teller Republicans. | —<br>—<br>4 Teller Republicans. | Democrats, Populists, and Silver Republicans fused. Arapahoe Senate delegation with minority; House delegation with majority. |

THE STRENGTH OF THE VARIOUS POLITICAL PARTIES IN EACH BRANCH OF THE STATE LEGISLATURE FROM 1893 TO 1901, INCLUSIVE.—*Continued.*

| The Legislatures. | The Senate. | | The House. | | The Parties Dominant in Each Branch and in the Arapahoe Delegations. |
|---|---|---|---|---|---|
| | Composed of | From Arapahoe County. | Composed of | From Arapahoe County. | |
| 1899 | 9 Democrats.<br>9 Populists.<br>1 Single Tax. | 1 Democrat.<br>2 Populists. | 22 Democrats.<br>19 Populists. | 5 Democrats.<br>4 Populists. | |
| 1901 | 2 Republicans.<br>6 Silver Republicans.<br>19 Democrats.<br>7 Populists.<br>1 Single Tax. | 1 Silver Republican.<br>5 Democrats.<br>1 Populist. | 1 Socialist.<br>7 Republicans.<br>8 Silver Republicans.<br>37 Democrats.<br>13 Populists. | 3 Silver Republicans.<br>6 Democrats.<br>4 Populists. | Senate Democratic, Arapahoe delegation Democratic. House Democratic; Arapahoe delegation in House not predominantly Democratic. |

submitted to the people a constitutional amendment legalizing the eight-hour day for all laborers. The amendment was defeated at the polls. The Legislature of 1899 also passed an act requiring street railway companies to give to their car-crews proper protection from inclement weather. The fusion Legislature of 1897 gave added protection to coal miners by requiring a check-weighman, and to all miners by providing for boiler inspectors, by requiring safe mine-tunnels, by specifically recognizing the right of employees to join lawful trade unions, and by creating a state board of arbitration. The Bureau of Labor Statistics, first created in 1887,[1] was given financial support and, much to the regret of Denver's Chamber of Commerce, the Bureau of Immigration and Statistics was abolished.[2]

A second characteristic of the legislation of this period was the large amount of social legislation that was passed. A State Home for Dependent Children[3] and an Industrial School for Girls[4] were created and both of them located in Denver.[5] There was also created a State Bureau of Child and Animal Protection, and, for each county, a locally appointed Board of County Visitors to inspect and report upon all local charitable and correctional institutions. A statute was passed regulating pawn-brokers. The public health was more amply protected.[6] The suffrage was extended to women.[7] The election and nominating laws of the state were somewhat improved.[1] Social rather than industrial was the spirit of all the legislation of the period.

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[1] Laws, 1887, p. 62.

[2] The Chamber immediately took steps to have it re-established.

[3] Laws of 1895, p. 71.

[4] Laws, 1897, p. 68.

[5] Denver was well remembered, too, in the appropriations for state fish hatcheries.

[6] Including the prohibition of the sale of adulterated liquors, and requiring the inspection of petroleum.

[7] The constitution of 1876 contained a provision authorizing woman's suffrage. The first legislature submitted the proposition to the electorate, and it was defeated, in October, 1877. It was again submitted in 1893 and this time carried by a majority of 6,224 votes. Women's suffrage was incorporated into the constitution in 1903, by a majority of 36,000.

A large amount of local and special legislation is a third characteristic to be noted. There were liberal appropriations for bridges and for wagon roads.[2] Numerous small, specialized groups, such as the dentists,[3] horse-shoers,[4] and pharmacists[5] of the state, and the plumbers of Denver,[6] secured legislation safeguarding and protecting their interests. In 1895 a Bureau of Mines was created. To further the agricultural interests of the state, there were new enactments as to irrigation, appropriations[7] for testing artesian wells, a more stringent oleomargarine law, and a larger grant of power to the state dairy commissioners. A State Veterinary Sanitary Board and a State Board of Horticulture were created. There was no stable group interest that did not find its welfare enhanced through favorable legislation.

Nor did the capitalistic interests of the state have any trouble in protecting themselves and securing all the legislation they asked for. They were not, however, in sole control. Other interests were now also using governmental agencies to advance their own welfare. Hence the cry was raised that the legislation above noted was "socialistic," "anarchistic," "hard on business," etc. Interests that have long had a monopoly on the instruments of government are wont to raise such a cry when their monopoly on governmental authorized, through a law purporting to apply to all cities of the state having a population of 100,000 or over, Denver being the only such city, to establish parental or truant schools, provided that the proposition be submitted to and approved by the electorate at some general election. Such, including the enactments as to the city library, noted in the succeeding paragraph, were the only important extensions of power. The other powers, including the blanket grant, remained as they were at the end of the preceding period.

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[1] In 1901 the Legislature asked Congress to adopt direct election for national senators.

[2] In 1899 appropriations varying in amount from $2,000 to $6,000 each were made for nine local bridges. In 1895 appropriations varying in amount from $3,000 to $15,000 each, were made for six wagon roads, and in 1899, fifteen local roads were subsidized at from $3,000 to $35,000 each, the latter amount being for a road from Denver to Grand Junction.

[3] A State Board of Dental Examiners.

[4] A Board of Examiners for Horseshoers.

[5] A State Board of Pharmacy.

[6] A Board of Examiners of Plumbers in cities of over 50,000, Denver being the one such city. Laws, 1893, p. 372.

[7] A total of $10,500, in 1895.

One of the very first acts of Denver's Chamber of Commerce was to establish, by a resolution[1] bearing date of July 17, 1884, a public library, known as the Mercantile Free Library. The library was opened in the autumn of 1886. The Chamber continued to support it by monthly contributions and to furnish it with quarters, light, heat, and care, wholly at its own expense, until 1893, when it concluded[2] that the city should bear a share of the expense of the library. Accordingly, the charter, at the instigation of the Chamber, granted to the city power to support a public library. About the same time a "city library" was started by joint action of the city and the Board of Education. Thereafter, appropriations were made in alternate years[3] to the Mercantile and to the city library.

The field of assessment, taxation, and appropriations is of vital import during this period, not because of any important legislation, for none of any significance was passed, but because it sounds the characteristic note of the period, economy. The following table[4] gives the salient facts for all the years of the period.

[1] Report of Chamber of Commerce for 1898, pp. 35–37.

[2] Ibid., 1894, p. 29.

[3] For instance, $7,500 for the Mercantile library both in 1893 and in 1895; and for the city library, $5,000 in 1894, and $6,000 in 1896.

[4] Compiled from the auditor's reports on file in the auditor's office.

ASSESSMENT, TAXATION, AND APPROPRIATIONS, 1893–1901.

| Year. | Assessed Valuation. | Total Tax Levy. | Amount Raised by Taxation. | Total Amounts Appropriated by the City. |
|---|---|---|---|---|
| 1893 | $76,550,415 | 11.75 mills. | $679,750.88 | $1,071,792.23 |
| 1894 | 70,657,130 | 11.3 mills. | 643,523.85 | 861,221.56 |
| 1895 | 67,851,815 | 11.2 mills. | 481,977.92 | 825,245.96 |
| 1896 | 72,748,660 | 11.2 mills. | 458,016.80 | 741,315.03 |
| 1897 | 69,948,420 | 11.5 mills. | 522,180.07 | 809,885.00 |
| 1898 | 61,443,210 | 12.8 mills. | 551,863.61 | 871,904.00 |
| 1899 | 58,425,000 | 15 mills. | 563,775.32 | 864,608.62 |
| 1900 | 57,537,000 | 15.3 mills. | 576,509.16 | 899,454.45 |
| 1901 | 68,000,000 | 15.3 mills. | 529,834.85 | 1,012,477.53 |

The table reveals the rapid decrease in the assessed value of the city. This diminution of assessed values necessitated an increase in the tax levy. The tax actually raised was less, despite the higher tax levy, in the last two years of the period than in the first two years. The amounts appropriated by the city rapidly decreased from 1893 to 1899 and were smaller at the end than at the beginning of the period. The panic necessitated economy in city affairs. Here again the Chamber of Commerce was instrumental in guiding the city's governmental policy. The Chamber's officers and directors made especial effort to reduce the city's expenditures. These efforts were "met in good spirit by the officers of the municipal and county organizations, and material economies secured."[1] It was this necessity for economy that brought unity into the hopelessly diffused governmental plan, later to be described, adopted in the charter of 1893. As soon as this demand for economy ceased to be an agglutinative force, the scheme became wholly inefficient.

Before passing on to the discussion of that scheme, however, it is necessary to note the procedure by which certain contiguous towns were annexed to Denver. As a result of the boom of the latter half of the preceding period, a number of small incorporated towns had sprung up just outside the city's limits. Denver was quite desirous that certain of these towns be annexed to her territory. It was proposed, in the first legislature of this period, when the charter was under discussion, that these towns be annexed by the very simple process of so enlarging Denver's corporate boundaries, as described in the charter, that they would be included therein. The question of the constitutionality of this procedure was raised, however, and the House asked the Supreme Court to give its opinion upon the validity of such a law. The Court held[1] against its validity on the grounds that the destruction of the corporate existence of towns, duly organized under the general law, by an amendment to the charter of another city, was special legislation of the kind inhibited by the Constitution. The legislature, upon receiving this decision, gave up that method of annexing the towns, and, in lieu thereof, extended the charter boundaries of Denver so as to exclude these towns but to include, not only all the territory between the old boundaries of Denver and the boundaries of the towns, but also certain non-contiguous strips of territory, just beyond these towns. One strip so included was five and a half miles long and one and a half miles wide, two miles from Denver's contiguous limits, separated therefrom by the towns of North Denver, Highlands, Colfax, and Barnum, and lying wholly within another county, Jefferson. This method of getting added territory and of cutting off the growth of neighboring towns, the Supreme Court declared[2] also to be unconsitutional, holding that non-contiguous territory could not be annexed to a city, and that, therefore, the western boundary of Denver must end where the territorial limits of the intervening towns began.

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[1] Report of Chamber of Commerce for 1894, p. 29.

The same legislature that invoked this ingenious method of extending Denver's boundaries so as practically to surround the above mentioned cities, also defined, by general law,[3] the procedure by which "any town or city existing

[1] 18 Colo., 288.

[2] 20 Colo., 417.

[3] Laws, 1893, p. 451.

under the general laws of this state," if "contiguous to any city existing under any special charter of this state" could be dissolved and "annexed to the city existing under a special charter." The procedure for annexation had to be initiated by a petition to the county court signed by the resident taxpayers of the municipal corporation which it was sought to annex, twenty-five signers being required for a "town" and fifty for a "city."[1] The county court was then to require the board of trustees or council of this town or city to submit the question of annexation to the electorate thereof. If the proposition was adopted, the municipality thereby became annexed to the city with the special charter, that is, to Denver, and all the rights, properties, causes of action, and valid debts, of the annexed municipality thereby became the rights, properties, causes of action, and valid debts of the enlarged city. The water and light services of the annexed municipalities were not to be curtailed and their liquor ordinances were to continue in force unless repealed by a vote of their own electorate. This annexation statute the Supreme Court upheld,[2] and five municipalities,[3] South Denver, Harman, Highlands, Barnum and Colfax, were annexed to Denver in accordance with its provisions. When, however, the taxpayers of debt-burdened Fletcher presented to the county court a petition praying for dissolution and annexation to Denver, and the court had duly ordered the

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[1] A town has a population of under 2,000; a city a population of 2,000 or over, according to the Colorado statutory definition.

[2] Valverde v. Shattuck, 19 Colo., 104.

[3] The dates of organization and annexation of these municipalities were:

| Towns. | Date of Organization. | Date of Annexation. |
|---|---|---|
| South Denver. | September 18, 1886. | February 7, 1894. |
| Harman. | December 31, 1886. | February 18, 1895. |
| Highlands. | (April 8, 1875, town)<br>(November 4, 1885, city) | August 25, 1896. |
| Barnum. | August 27, 1887. | September 1, 1896. |
| Colfax. | June 10, 1891. | July 7, 1897. |

referendum thereon, the city officials hastened to get a measure through the state legislature requiring that the assent of the city to which the annexation was made was necessary to the validity of the annexation. This act[1] was passed two days after the county court made the order above noted. The Supreme Court sustained the statute, holding that it was not retrospective within the meaning of the constitution, and Fletcher, her annexation ordinance having carried, was refused admission to Denver's limits. Having invoked state aid to make possible the annexation of neighboring municipalities, Denver now invoked state aid to prevent the annexation of a debt-burdened municipality. The general annexation law was then so amended[2] as to make each municipality thereafter annexed responsible for its debts. Here the boundary situation remained until the adoption of the Home Rule amendment, later to be discussed.

In 1892 the Chamber of Commerce appointed a committee to draft a new up-to-date charter for the city—a charter that should tend to secure efficiency in city government. In accordance with these instructions, this committee reported a charter that contained the following as its leading features: (1) an arrangement of the work of the departments of the city that would avoid clashing and secure definite results; (2) the appointment of all heads of departments by the mayor, with power of removal, making the mayor absolutely responsible for efficient and economical service; (3) a wide use of civil service; (4) checks upon the disposition of public money, the making of public contracts, and the granting of municipal franchises. This charter was duly introduced into the legislature but there it was so amended as to leave only the slightest traces of its former efficiency. The civil service feature was cut out; sane regulations as to the issuance of public franchises were dropped; the state boards were continued; officers and salaries were multiplied; the mayor was made a figure-head; the government was decentralized; responsibility diffused. In short a politician's government was adopted.

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[1] Laws, 1897, p. 272.

[2] Laws, 1897, p. 145.

We must now turn to a more definite analysis of the charter of 1893, as adopted by the legislature, because it remained the basic law until the adoption of the home rule charter.

It side-stepped the gradual evolution toward centralizing power in the mayor's office and essayed to create six independent administrative departments, the departments of finance, law, supplies, parks, public works, and public health and safety.

Into the "department of finance" were put two repellently independent bureaus, the bureau of the treasury, and the bureau of audit and account, to be administered, respectively, by the treasurer and the auditor. The auditor's duties were left about as they were in the preceding period[1] with the one important exception that all power to audit the bills of the park commission and of the two state boards was entirely taken from the auditor, thus giving to these three departments entire independence from municipal audit.[2] The auditor's salary was raised from $2,500 to $3,500. With the demand for economy, it was not diminished though the salary appropriations for his bureau, all the subordinates in which he appointed, were.[3] The treasurer's duties were slightly extended by ordinance, primarily in the field of licenses, but, in the main, his duties were the same as they were in the preceding period. His bond was raised[1] to $500,000 and his salary increased to $5,000, double what it was before. The total salary appropriations[2] for the bureau of the treasury were no larger at the end of this period than in the beginning. Though these two bureaus were ostensibly in a single department, they were, in practice, two independent departments, and the "department of finance," as a working unit, remained a fiction. Each bureau head was elected; he appointed his own subordinates; he was to act as a check upon the other. If unity existed, it was of necessity something in the nature of a cabal, and to prevent that sort of unity, the district court was required, as before, to appoint, at least annually, three resident expert accountants to examine the books of both bureaus. This was in itself an admission that the two "bureaus" were exclusively independent. Why they should ever have been thrown into a "department," it is difficult to see. Certain it is, the plan availed nothing.

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[1] He was given added supervisory power over the bonds of city officials. See Ordinances of 1898.

[2] This was done by limiting the auditor's power to require claims against the city to be itemized, and by limiting the auditing power of the auditing committee to those claims or bills which the council could pass on.

[3] The highest total appropriation for all salaries in the bureau of audit and account, including the auditor's, was $8,809.12 in 1895; the lowest was $7,233.97 in 1899; other years were: $8,075.76 in 1893; $8,780 in 1894; $7,597.92 in 1900; and $7,601.01 in 1901.

A "department of law" was provided for, to be administered by the city attorney. The attorney was allowed a salary of $5,000 and was empowered to employ a first and second assistant and a stenographer, whose salaries were fixed at $2,500, $1,500 and $1,200, respectively, and such other assistants as the council, by ordinance, should allow him. Salary appropriations for this department were not diminished but, on the contrary, increased.[3] The city attorney was required, by ordinance, to report quarterly to the mayor. As he was an elected official, this slight publicity was the only statutory control over him.

Another new "department" was the department of parks, to be administered by a park commission of three, appointed by the mayor for two year terms. The commissioners served without compensation save that they were reimbursed for such of their necessary expenditures as the mayor approved. Such offices and facilities as the commission deemed necessary, the city was to furnish. The commission, the mayor approving, appointed and fixed the remuneration of the park superintendent and his assistants, and expended all funds raised for and in behalf of the city for park purposes, the most important of which was a mandatory tax of one and a half mills, to be levied by the council.[1] Two-thirds of this fund was to be used for the purchase of park sites, the other third, for park improvements. When the demand came for lowering municipal expenses, however, the council did not levy the full rate required. The levy for 1899, 1901, and 1903 was 1.3, not 1.5 mills, and, for 1902, but .6 of a mill. As the commission was appointed by the mayor, and as the mayor and the people were in sympathy with the policy of diminishing the tax rate, no attempt was made to compel the council to make the full park levy. The charter also provided that "at least one-eighth of the proceeds of the sale of all public improvement bonds of the city," thereafter to be issued, should go into the park fund. From these two sources the commission had at its disposal goodly funds for park purposes. In 1893, the total park fund was $37,037.23; in 1899, the park construction fund alone was $131,693.84. In addition to these revenue sources, the park commission could issue district park bonds. The charter provided that the council should, in accordance with the recommendations of the commission, divide the city into two or more park districts. The districts created, the commission could sell park bonds for the establishment of parks therein.[2] Over all the parks of the city, the commission was given exclusive control, including the power to establish and maintain therein museums, libraries, art galleries, and works of art. It was also given full control over all existing park boulevards and pleasure ways and over such new park boulevards and pleasure ways as the council, upon the recommendation of the commission and the mayor, might authorize. The commission was thus entirely independent of the council. While yielding to the cry for economy to the extent of slightly diminishing its annual expenditures, it added to the park acreage[1] in the city and made many improvements. The value placed upon the parks and park lands under the control of the commission ranged from $2,559,500 in 1899 and 1901, to $3,042,407.20 in 1894 and 1895.

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[1] From $200,000.

[2] For certain years these were: 1893, $9,322.45; 1894, $9,425; 1895, $10,141.62; 1899, $7,596.90; 1900, $10,100.04; 1901, $10,099.92.

[3] For 1893, $10,019.22; 1894, $11,220; 1895, $11,399.12; 1899, $11,240; 1900, $13,719.96; 1901, $13,448.28.

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[1] "The council shall levy" read the charter.

[2] If the commission proceeded in the name of the city to *condemn* the real estate to be used for park purposes, the mayor's approval was not necessary, but if the commission sought to *purchase* real estate for park purposes, his honor's approval was necessary.

The creation of a department of supplies was a splendid new feature of the charter of 1893. At the head of the department was a superintendent of supplies, appointed by the mayor, at an annual salary of $2,500. This superintendent appointed his own subordinates,[2] subject to the approval of the mayor. The approval of the mayor, however, was an extra-legal provision in the ordinances. The charter provided that each department head "should appoint in writing his own officers and employees." But, as the superintendent of supplies was subject to the mayor's removal, this extra-legal provision could be enforced. After 1894, in response to the demand for economy, the full salary permissible to the superintendent's assistants was never granted.[3] The superintendent was made the purchasing and supply agent for all the city departments.[4] The department of supplies was a decided step in advance.

[1] There were nine parks in 1895, totaling 510 acres, 250 of which were improved.

[2] A deputy superintendent of supplies and a storekeeper; their salaries were $1,200 and $900 respectively. Ordinances, 1898, p. 206.

[3] The salary appropriations for the commissioner of supplies and his assistants totaled $3,130.26 in 1893, $4,413.69 in 1894, $3,973.88 in 1895, $3,696.68 in 1899, $3.699.96 in 1900, and $3,699.93 in 1901.

[4] Contracts had to be awarded in the presence of the mayor and auditor with the consent of either.

The next department to be considered, the "department of health and safety," existed in name only. On paper the department consisted of five bureaus, the bureaus of fire, police, and excise, the commissioners over which was the state board appointed by the governor, and the bureaus of health and inspection, the commissioners over which were appointed by the mayor. These commissioners never met as a body, and the charter contained no provisions whatsoever that would make the last two work in harmony either with one another or with the fire, police, and excise commissioners. In practice, therefore, the bureaus of health and inspection were separate departments under the mayor's supervision.

The health commissioner, appointed by the mayor and subject to his removal, took the place of the former board of health. He was vested with all that board's powers and was given added power over pest houses, hospitals, and nuisances. The appropriation for the health department, which included $2,500 for the commissioner's salary, was reduced from $70,636.87 in 1893 to $36,407.11 in 1896.[1]

For three years the bureau of inspection was, as the charter provided, administered as a distinct unit; the commissioner of inspection, who was subject to appointment and removal by the mayor, appointed all subordinate inspectors. After this period, however, the "bureau" was no longer so administered. The commissioner of inspection was denied power to appoint his subordinates, and the mayor, himself, directly appointed and removed them.[2] Custom and acquiescence, that is, superseded the formal structural plan and what was, on paper, centralization, became, in practice, decentralization. Denver's charters have always been freely amended in such unwritten ways.

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[1] The expenditures for other years were: 1894, $52,760; 1895, $46,888.85; 1899, $51,681.58; 1900, $45,863.18; 1901, $62,014.16.

[2] In addition to the commissioner of inspection, the mayor appointed two building inspectors at salaries of $1,500 each, and an electric light and gas inspector at the same salary, a boiler inspector at $1,800, an inspector of weights and measures, paid by fees, and a market master and his assistants at $75 and $50, respectively, per month.

The officials thus far considered have been those that were chosen locally either by election or appointment. Next to be considered are the two municipal boards appointed by the governor.

The charter of 1893 made many significant changes in the statutory regulations pertaining to the state fire and police board. As before, the members of the board were appointed by the governor, with the advice and consent of the senate, but the governor's power of removal was now framed in more specific terms. He was empowered to remove or suspend any member of the board "at any time for cause, to be stated in writing, but not for political reasons." By the statute of 1891 the board designated one of its own members to act as president; by the charter of 1893, the member designated by the governor as fire commissioner, was president. The president's salary remained at $3,000, but the salaries of the other two members were raised to $2,500, and the salary of the board's secretary was fixed at $150 per month. Another departure was to divide the work of the board among three bureaus, the bureaus of fire, police, and excise, the governor to appoint a commissioner for each of these bureaus, the three to constitute the fire and police board. The council, however, paid no attention to this division and legislated solely with reference to the board as a unit.

The board's power over licenses was extended to include the initiatory power to grant or refuse licenses, as well as to revoke them. The council was still, within certain statutory limitations, the legislative power as to permits and licenses, but all administration pertaining thereto was granted to the state board.[1] For instance, the council, subject to the statutory limitation that it could not fix the license fee for saloons at a lower rate than $600 per annum, nor allow them to be open on Sunday or after midnight, legislated at will as to saloon licenses. The board then granted, refused, or revoked them. This power of the board was most important, as the licenses granted to retail liquor dealers alone brought into the city treasury about $200,000 annually.[1] The council[2] provided that the treasurer, with the consent of the mayor, should appoint a certain number of license inspectors to inspect, with police power, licensed places and occupations and to file complaints of violations of license orders in the police magistrate's courts. This was intended as a check upon the work of the fire and police board. After 1895, however, the police magistrate also was appointed by the governor, so all actual control over saloon and other licenses passed solely into the hands of the state appointed officials. And finally, the board was granted "full, complete, and exclusive" authority over all its expenditures and over all funds, from whatever source, to be used for police, fire, or excise administration. The board, that is, had absolute and untrammeled control over the city's police, fire and excise departments, save such as the governor might care to exercise through his power of removal. All legal local control over these departments, whether by the mayor or by the council, was abolished.

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[1] The right to issue the miscellaneous permits and licenses not by enumeration put within the power of the fire and police board was vested in the mayor. Ordinances, 1898, sec. 481

The annual salary appropriations for the board remained the same, about $9,800, throughout the entire period, the plea for economy simply preventing increased expenditures. The council's appropriations for fire and police purposes, however, were diminished very perceptibly, as the table of annual expenditures on page 186 reveals. This decrease in the council's appropriations was not due to the board's saving propensities. It simply meant that existing fire stations were allowed to diminish in value, and new stations were not

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[1] $192,875 in 1899; $215,538 in 1900.

[2] Ordinances, 1898, p. 182.

EXPENDITURES FOR FIRE AND POLICE, 1893–1901.

| | 1893 | 1894 | 1895 | 1899 | 1900 | 1901 |
|---|---|---|---|---|---|---|
| Police and jail | $165,000 | $135,000.00 | $127,215.50 | $120,468.40 | $130,310.47 | $169,454.22 |
| Fire | 155,000 | 152,831.70 | 145,308.23 | 139,561.54 | 137,997.01 | 156,719.96 |
| Total | 320,000 | 287,831.70 | 272,523.73 | 260,029.97 | 268,307.48 | 326,174.18 |

erected. The fire stations were valued in 1893 at $171,000; in 1899 at but $128,000—a decreased value of $43,000. The total permanent assets of both fire and police departments were $10,000 less in 1901 than they were in 1899.[1] There is no evidence that the state board was as efficient as a local board would have been, and it certainly was less satisfactory to the municipality.

The right to issue and refuse licenses, the power to appoint and remove the subordinates, totaling, in all three bureaus, at least two hundred salaried officials, made the board a most valuable asset to the political party that controlled it. The governor's appointments[2] to the board were made primarily with a political end in view.

Kindred in effect and purpose to state appointment of the fire and police board, was the state appointment of the city's police magistrate. The provision for this was made in 1895. The magistrate's salary, $2,500, and the salary of his clerk, $1,600, were paid from the city treasury. This scheme further decentralized and made inefficient Denver's municipal government.

The charter of 1893 made but one amendment in the organization of the state-appointed board of public works, and that was that the president of the board should be named as such by the governor and not elected from its own number by the board. But the charter widely extended the board's powers. In only one instance, that of taking parks out of the board's control, was the board's power diminished, while in many vital affairs, it was increased. The last vestige of council control over paving, grading and lighting the streets, over the stringing of wires therein, and over sidewalks, was swept away, and the board, in all these fields, was given exclusive control. The council's right to take the initiative in vacating and changing streets was transferred to the board and the council was left only with the unsatisfactory power of ratification. The council could legislate as to excavations in the streets but the board alone could grant excavation permits. Not only did full power to regulate and define boulevards and pleasure ways outside of the parks, remain with the board, but the council was denied power to grant any special privileges or franchises over or pertaining thereto without first obtaining the written consent of the board. All ordinances providing for local improvements and for the building of viaducts and tunnels, including the ordinances that designated the boundaries of all improvement districts, were to be drawn up by the board; the council could reject them in toto but could not amend them. The one power of the council over public works, that was left unabridged, was the power to require railroads to construct viaducts, bridges, and tunnels,—a power that, for the sake of unity and completeness, might as well have been given to the board. The board's power was increased at the expense of decreasing the mayor's powers as well as the council's. By the statutes of the preceding period, the mayor was authorized, upon the recommendation of the board, to let all contracts for public improvements. This clause was continued but it was provided that only such local improvements as were paid for in whole or in part by assessments upon the property benefited thereby, had to be done by contract, all others could be constructed by day-labor under the supervision of the board itself. The board, that is, was granted virtually full control over all the public works and streets of the city, free from any necessity of securing the approval of municipal officers.

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[1] From the auditor's reports.

[2] Robert W. Speer, the present mayor, was police commissioner from April, 1897, to April, 1899, and fire commissioner, and hence president of the board, from April, 1899, to April, 1901. He then was appointed president of the Board of Public Works.

Its powers and influence were widely extended in other directions. The elective offices of street and water commissioner were abolished,[1] and, in lieu thereof, a bureau of highways was created to be administered by a well-salaried[2] commissioner of highways, appointed by the board, and subject to its removal. The significance of the work of this bureau is shown in the appended table giving the bureau's expenditures for each of the last three years of the period.[3]

There was also created a bureau of engineering to consist of a supervisory engineer, appointed by the board, at a salary of $4,000, and such assistant engineers, at salaries of not over $150 per month, as the board might see fit to appoint. The expenditures of this bureau ranged from $10,299.20 in 1897 to $15,445.37 in 1901.[4] The elective office of city engineer became thereby merely that of city surveyor. His salary, nevertheless, was raised[5] to $3,000.[6]

A new sewer classification gave to the board added powers over the sewer system. Sewers were classified as (1) public,

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[1] Effective after 1895.

[2] Salary, $2,500.

[3] EXPENDITURES OF BUREAU OF HIGHWAYS, 1899-1901.

| For | 1899 | 1900 | 1901 |
|---|---|---|---|
| Paved streets | $ 5,949.36 | $14,967.22 | $22,000.00 |
| Cross walks | 4,994.05 | 3,150.10 | 3,997.97 |
| Streets, alleys, and bridges | 39,475.83 | 37,390.44 | 40,081.61 |
| Total | $50,419.24 | $55,507.76 | $66,079.58 |

[4] For other years: 1893, $13,332; 1894, $11,235; 1895, $11,790; 1899, $12,207.11; 1900, $11,347.55

[5] From $2,500.

[6] The appropriations for "city engineers" fell from $28,500 in 1893 to $12,000 in 1900.

(2) district, (3) storm, and (4) private, the first to be constructed solely by the board and at its pleasure, the second to be constructed by the board after they were declared necessary by the council, the third to be constructed only by a unanimous order of the board ratified by a two-thirds vote of the council, and the fourth by individuals under the council's ordinances, and, necessarily, under the board's supervision.[1] This practically put all sewers under the board's control. It is to be recalled, also, that all Cherry Creek improvements were under the board's supervision.[2] The charter of 1893 also specifically put all water works or electric light plants that the city might come to own under the board's control. And finally, the board stipulated the provisions[3] for, and its approval was necessary for the validity of, all debts contracted by the city, exclusive of park bonds, but inclusive of all public, district, and local improvement bonds paid for by taxation or special assessments.

This description of the board's jurisdiction gives some idea of how extensive its powers were. It had to do more or less directly with every public municipal interest. Far over half of all the expenditures of the city were spent, directly or indirectly, through this board, appointed by the governor of the state, every effort being made to free it from all local surveillance whatsoever.

The council, read the charter, "shall levy" any assessment duly requested by the board. The Supreme Court a decade later[4] held that these "apparently mandatory" words should be so construed that "shall" should mean "may," because a contrary construction would render the statute obnoxious to the constitutional provision inhibiting to the legislature power to appoint any state commission to conduct municipal affairs. But this was after the charter of 1893 had been replaced by a home rule charter. During all its existence, however, the board of public works, like the other state board, was not especially responsive to local public opinion, not even to the demand for economy.[1] Worse than this, the Chamber of Commerce found it necessary to report in 1898 that "It should be the duty of this association to thoroughly investigate the laws now governing and controlling the pavement and improvement of our streets. Some way should be discovered to enact such legislation as will prevent interested contractors and disgruntled citizens from overriding the expressed wish of the majority of the people of this community on this question."

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[1] The board's consent would have to be obtained before excavations could be made upon the streets.

[2] Also the planting and care of trees, upon the recommendation of the park commission.

[3] The only limitation was that no bond should bear over six per cent. interest. Only a majority vote of the board was required.

[4] Denver v. Londoner, 33 Colo., 104. January, 1905.

The most prominent characteristic of the municipal governmental tendencies of this period was the accelerated decline in the power and prestige of the council. Numerous have been the instances already cited wherein the council was shorn of power. The decline of faith in the council is also revealed in the added checks put upon its legislative procedure. For instance, it was provided that bills granting franchises or special privileges, or authorizing the expenditure of more than $5,000, should not be passed until one week after their introduction, nor until they had been for more than five days published in some city newspaper. The legislative autonomy of the council was decreased by providing that a vote of three-fourths, instead of two-thirds, of all the members of each board was necessary for the passage of a measure over the mayor's veto. The penalties formerly provided for bribery, either of, or by, a councilman were increased. The council's loss of power was accompanied by only slight changes in its organization, and these were all changes of a nature that would not in themselves account for its diminished prestige. Thus the president of the board of supervisors was nominated and elected as such, instead of being elected by and from the board itself, and the number of members in the lower branch of the council was increased. The legislation pertaining to this increase in the number of aldermen, whether enacted by the state legislature or by the council, bore every mark of political manipulation. The charter of 1893, enacted by the Republicans at a time when a Democratic avalanche was threatened, decreed that the boundaries of the wards, then twelve in number, should not be changed until after the general election of 1895, when the number might be increased to not more than seventeen. In 1895, in 1897, and in 1899, ward boundaries were changed.[1] In 1901, when the Democrats were in power, sixteen wards were in existence, the population of which varied from 2,485 in ward fourteen to 13,376 in ward ten.[2] These ward boundaries were evidently satisfactory to the Democrats as it was provided[3] that their boundaries should remain unchanged until after the general election of 1903, when boundaries might be changed and new wards, not over twenty in number, could be created. This sort of legislation shows that the parties of both the state and the city thought of the council as a tool of party interests. Its political character, its loss of power, and its bicameral nature, were together responsible for its degradation into a position of almost utter impotency. About the only significant power left to it, for even the total tax levy was largely determined by forces outside of its control, was the granting of franchises and special privileges. To what extent it was free, and to what extent it was merely an agency in this field yet remains to be seen.

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[1] The board's own salary account shows a slight decrease—from $12,809.99 in 1894 to $11,799.98 in 1901.

In the field of administration several commendable tendencies are noticeable. The creation of the department of supplies, the centralization of power in the hands of the health commissioner, the creation of a bureau of highways, the creation of a bureau of engineering, and the provision that each department head should, alone, appoint his own subordinates, were provisions that made for administrative efficiency. Then, too, the mayor's appointive power was freed from the necessity of securing the sanction of the board of supervisors. The only result of the provision that the supervisors should approve the mayor's appointments, had been to force the mayor to think of party and other extraneous considerations, when making his appointments. The number of departments in which the mayor had power, was diminished, yet his power was increased in those departments for the administration of which he could be held responsible. And, finally, the number of elective officers was diminished.[1] All these changes were improvements. Many of them were retained in the first charter drafted under the home rule.

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[1] The number of wards was increased from nine to twelve in 1893, from twelve to fourteen in 1895, to fifteen in 1897 and to sixteen in 1899.

[2] From the census reports of 1900.

[3] Laws, 1901, p. 165.

But despite these improvements, the governmental plan provided for in 1893, unmodified until the adoption of the home rule charter, was as thoroughly inefficient as any scheme that could have been devised. Its great weakness was its utter want of unity. Six large administrative departments were provided for. Two of these departments were headed by elective officials, two by officials appointed by the mayor, and two by boards appointed by the governor. This plan was bad enough on paper, but in practice it was worse. One of the elective departments was, in practice, two. The three elective officials were as independent of all local control as were the two state-appointed boards. One of these state-appointed boards, the fire and police board, was, in practice, three nearly independent bureaus. There remained a few relatively unimportant positions to be filled by the mayor, but even these broke up into numerous small, relatively independent positions. The one unifying force, without which the plan would have broken down long before it did, was the persistent demand for economy. This necessitated some unity of purpose among departments otherwise discordantly independent.

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[1] After 1895 they were: mayor, clerk, auditor, engineer, treasurer, and attorney, all elected biennially.

The reason why the state legislature did not relieve the city of such a plan, is not far to seek. It lies in the political situation described at the outset. The plan gave the maximum of opportunity for party groups and corporate control. The party that could carry certain wards, but not the city as a whole, could find representation in the board of aldermen. The party that could carry the city, but not the state, could find some opportunity for party rewards in the elective positions and the mayor's appointments. The party that could carry the state could secure a large share of the city's spoils through the two state-appointed boards. With diffused responsibility, the public service corporations could secure all they wanted. No one of the party groups and no one of the public utilities was willing to give up such advantages.

In 1894, "The Municipal League of Denver" was organized to secure a revision of the city's charter in order to secure efficiency and to separate municipal politics from state and national politics. Its members succeeded in getting their bill introduced into the legislature, but the measure received no consideration. The next attempt for clean municipal government was the struggle for legal and actual "home rule."

## PUBLIC SERVICE CORPORATIONS.

The panic of 1893 gave an excellent opportunity for driving out all remaining competition, actual or potential, still existing among the city's public utilities. The industrial stagnation consequent thereto caused the city's future needs to be capitalized at a lower figure and made it very difficult to float new companies of any kind. To this situation was added the friendly and co-operative relations between these corporations and the political parties that governed state and city. The race for monopoly was now to the corporation that could exert the greater influence in municipal and party circles.

The first move made by the Tramway, composed of men whose fortunes had been made by and in Denver, was to consolidate its two nominally independent companies, the Denver Tramway Company, and the Metropolitan Railway Company, into The Denver Consolidated Tramway Company. The articles of incorporation, filed September 6, 1893, provided for a fifty-year tenure from July 1, 1891, authorized a capital of $3,000,000, and gave to the company plenary powers to build, operate, or lease street railways in Denver and neighboring towns, and to use for power any force then or thereafter known or discovered. The efforts of the new company were at first addressed not primarily to extensions and improvements,[1] but to the entrenching of itself in party favor, to the reshaping of judicial opinions in friendly courts, and to securing added rights and privileges from the city.

The judicial opinion that received immediate attention was the opinion of the Supreme Court, handed down on October 30, 1893, upholding the District Court's decision that the franchise of 1885 was invalid, not only because, at the time that it was granted, the city had power to permit the use of its streets to street railways propelled by horse power and dummy engines only, but because it was granted in perpetuity. "Whatever may be the designation given to the right conferred upon a railway company," said the Court, "under a permit or license to lay tracks and operate its cars in the streets of a city, it certainly constitutes a right to use the streets in contravention of common rights, and one that is special in its nature, and when granted in perpetuity, is violative of the constitutional provision"[2] that "no law making an irrevocable grant of privileges, franchises, or immunities, shall be passed by the General Assembly." No sooner was the decision announced than the Tramway asked for a rehearing. This, to the surprise of all, the Court granted, on December 22, and on June 4, following, to the amazement of all, it completely reversed[1] its former decision. It now held that the curative statutes passed by the municipality did validate the franchise and as to perpetual franchises said: "Upon re-argument and re-examination our conclusion is that this Court ought not to express an opinion as to the extent of the rights or privileges of the plaintiff company under Ordinance No. 3, of February 6, 1885, except so far as may be necessary to determine whether the mayor and chief of police of the city were justified in interfering as they did with the employees of said company. . . . Whether the ordinance granted to the plaintiff a privilege in perpetuity is not material to the determinations of the present controversy. . . . It will be time enough to determine whether the company has a valid grant of right of way (in perpetuity or otherwise) in streets not occupied, when such a claim is asserted and actually brought in issue. . . . Our conclusion is that the suit of the plaintiff company should have been sustained as against the mayor and chief of police, the only defendants in the action." The decision, that is, not only validated the franchise of 1885, but labored to leave the impression that it was perpetual.

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[1] Save to complete the electrification of its lines, and the building of 1¼ miles of track to University Park. For this latter purpose, a subsidiary company, The Park Extension Railway Company, was organized, with a capital of $10,000.

[2] Art. 2, sec

The company then turned to a friendly council to get from the city sanction anew for its perpetual franchise. This was done through clauses, "jokers," inserted in the ordinances,[2] requiring the company to pave between its tracks and two feet on each side thereof. On February 16, 1895, the company obtained from the council[3] new twenty-year rights over designated streets, without remuneration, as usual, and without reservation for protecting the city's social needs. This franchise, it must be noted, was for twenty years after 1895, not after 1885. The Tramway was thus given a cleavage for blocking the activities of any new company for a whole decade should the Court again decide against perpetual franchises. Moreover, the car tax was abandoned and was not renewed.[1] The company's assessments for taxation were kept low. For instance, in 1901, when it had 144 miles of well-equipped track, including 250 cars, and five electrical power stations; when its gross earnings, $1,304,290 in 1900, had increased 5.85 per cent. and its operating expenses, $722,451 in 1900, had decreased 10.44 per cent. for the current year;[2] when it was carrying over 36,000,000 passengers yearly,[3] had a capital of $5,000,000, and an authorized bond issue of $5,000,000, the company was assessed, in round numbers, $4,000,000.

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[1] Denver Tramway Company v. Londoner, 20 Colo., 150.

[2] Comp. Ords., '98, pp. 938 and 1008; Franchises, '07, pp. 456 and 462. Passed in 1895 and 1898, respectively.

[3] Comp. Ords., '98, p. 975; Franchises, '07, p. 454.

Its competitor, already timorous, and without such local influence, was, in the meantime, riding roughly, indeed, through the years of depression that followed the panic. On November 10, 1893, The Denver City Cable Railway Company and its subordinate, The West End Street Railway Company, went into the hands of receivers with debts totaling $4,300,000. They reorganized under slightly different titles, using the word "railroad" instead of "railway," and again gave promise of long life. Then the Tramway officials caused to be organized a "fake" independent concern, The Citizens Railway Company,[4] and secured for it, on August 5, 1895, a franchise[5] for a car line on Market Street, paralleling only a block away the best paying property of the Cable Company.

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[1] Ten dollars from 1886 to 1888, then twenty-five dollars until repealed. It was upheld in Denver City Railway Co. v. Denver, 21 Colo., 350.

[2] *Arena*, 34; 485. Its interest charges for 1900 were $322,102, an increase over 1891 of $44,927.

[3] 35,260,000 in 1900. Smiley, p. 868.

[4] With Milo R. Smith as promoter.

[5] Comp. Ords., '98, p. 977. Franchises, '07, p. 364.

This franchise contained the significant provision that the new company "should receive and deliver passengers going to and from the business portion of the city, and to and from connecting lines of railway, charging one-half fare for such passengers for each passage: Provided that such connecting lines *only* are contemplated in this section, as *may not be parallel* or *competing* with the lines of said company." This meant that discrimination in fares would be practiced against the Cable Company, the one "parallel" line referred to, and that passengers would desert it. The news of this franchise thoroughly frightened, as it was intended to do, the bond holders of the Cable Company, nearly all of whom were residents of Providence, R. I. In due time a receiver for the Cable concern was appointed by the Federal Courts and its property, on December 16, 1898, was sold to the Tramway at a receiver's sale "for about $265,000."[1] The Tramway took over the property through a subsidiary concern, The Denver City Traction Company. It is needless to add that the franchise granted to The Citizens Railway Company was now allowed to become void from non-use. On March 3, 1899, The Denver City Cable Railroad Company and The West End Street Railroad Company were consolidated with The Denver Consolidated Tramway Company into The Denver City Tramway Company with a capital of $5,000,000, the new stock being held almost wholly by former Tramway stockholders. The Denver City Tramway now held an absolute monopoly[2] upon Denver's street railway service and not only a monopoly but it claimed to own, and no one disputed its claim, not only the perpetual franchise referred to above, but the important franchises, totaling over four score and ten, granted by Denver and her neighboring municipalities, to all the companies, over twenty-five in number, that had ever asked for street railway privileges.[1]

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[1] J. Warner Mills in *Arena*, 34; 486.

[2] Two very minor, short-lived, independent companies built horse-car lines in 1898, one to run to Orchard Place, a half mile south of the city—its equipment consisted of one horse and one car—and one to run 3.6 miles west from Orchard Place.

With a monopoly and with a claim to a perpetual franchise, the Tramway stock was advertized with telling vigor. Said the company's brokers in promotion circulars: "The Denver City Tramway owns and controls the entire city railway system of the city of Denver, comprising in all 156 miles of track, serving a population of about 175,000, and has a franchise without limit to time, and therefore, perpetual." Tramway stock was soon quoted at one hundred and fifty. The Tramway's claim to a perpetual franchise was used not only to sell its stocks and bonds to non-residents—and telling use was made of this claim in such sales as the author has learned from the company's underwriters—but the claim was also used to secure a more favorable franchise in the succeeding period. Yet this claim to rights in perpetuity was made in face of the obviously circuitous phraseology used by the Supreme Court as given above and in face of a clear-cut decision[1] by the Supreme Court in a somewhat analogous case, that a corporation could not, without a renewal of its articles, live beyond the statutory limitations for corporations of its class. This was twenty years for all public utilities save gas companies.[2] The spirit of this decision seemed to point clearly to the conclusion that the company's franchise would be void in 1905, twenty years after it was granted.

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[1] The Tramway claimed all the franchises given to the following companies: The Arapahoe Railway Co., The City Park Ry. Co., The Colfax Ave. Ry. Co., The Colfax Ave. Electric R. R. Co., The Colfax Electric Ry. Co., The Denver and Berkeley Park Rapid Transit Co., The Denver and Northwestern Ry. Co., The Denver Cable Ry. Co., The Denver City Cable Ry. Co., The Denver Consolidated Tramway Co., The Denver Electric and Cable Ry. Co., The Denver Globeville and Golden Rapid Transit Co., The Denver Horse Railroad Co., The Denver Lakewood and Golden R. R. Co., The Denver Tramway Co., Sr., The Denver Tramway Co., Jr., The Denver Tramway Extension Co., The Fairmount Ry. Co., The Highland Street R. R. Co., The Metropolitan Ry. Co., The Park Ry. Co., The South Denver Cable Ry. Co., The University Park Street Ry. Co., The University Park Ry. and Electric Co., and The West End Street R. R. Co. The only companies to whose franchises the Tramway did not lay claim were The Denver and Suburban Ry. Co., The Denver City Ry. Co., The Denver City Electric Ry. Co., The Montclair R. R. Co., The Pleasure Resort Co., The South Denver Street Ry. Co., Frank E. Cook, Nichols and its fake Citizens Ry. Co. See Franchises, '07, esp. pp. xii to xiv and p. 353.

Despite the fact that favorable action on the part of the city had greatly enhanced the value of its lines, The Tramway was unwilling to compensate the city adequately for its franchise privileges. As soon as it had acquired the cable lines of its rival, it applied to the council for permission to equip them electrically. In the municipal elections of 1895, the campaign issue was, in essence, whether or not the city should continue to be governed by its public utilities or should be governed by its electorate through their own representatives. T. S. McMurray, the candidate that stood for divorcing the city's government from the city's public service corporations, was elected mayor in both elections. Seeing that some show of compensation would now have to be made, the Tramway offered $50,000 for the privilege of electrifying all its lines. This bill the council passed, but Mayor McMurray promptly vetoed it and stood for an annual return of from 2 to 5 per cent. of the company's gross returns, severalfold more that the company offered. It must be remembered that the only return the city now could require was a financial return, as the franchise of 1885 had failed to provide for social returns, such as needed extensions and better service. The Tramway then went into the election of 1899, determined to defeat McMurray, who was a candidate for a third term. McMurray was defeated, was "counted out" through the influence of the city's public utilities, say many competent observers of Denver elections.[1] The newly elected council promptly repassed the ordinance with the compensation increased from $50,000 to only $72,000, and the newly elected mayor, Henry V. Johnson, who had during his campaign stood with Mayor McMurray as to public service corporations signed the measure.[2] The company was permitted to use any motive power on any of its lines, the permit to be valid for twenty years after the approval of the ordinance. This ordinance gave added value to the company's claim to a perpetual franchise.

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[1] People v. Cheesman, 7 Colo., 376. April Term, 1884.

[2] For which the statutory limitation is fifty years.

On March 26, 1901, a subsidiary company, The Denver Tramway Power Company, was incorporated,[3] to build and operate power houses "for the manufacture, generation, and transmission of electrical and other energy" and to sell, lease, or otherwise dispose of the same. It authorized itself to do business principally in Arapahoe, Jefferson, Boulder, and Weld counties. The concern was capitalized at $500,000 and was incorporated for twenty years.[4] The Tramway thus linked itself with the power companies and the power developing possibilities of Colorado.

On March 27, 1901,[5] other street extensions were enumerated for the Tramway, with the proviso that these new privileges should not be construed "as a waiver of any right or contention either of the city of Denver or The Denver City Tramway Company." The council reserved "the right to pass any general ordinance with reference to the operation of railways upon the routes herein designated which the comfort of the inhabitants of the city or the safety of the passengers thereon may require." In the hands of an independent council, this clause might be of value. One advantage of specifying streets is that new provisions of this kind may be inserted.

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[1] For instance, J. Warner Mills, Judge Ben B. Lindsay, Senator Patterson and many of Denver's best daily papers of the time.

[2] Franchises, '07, p. 424. On March 21, 1900.

[3] The incorporators were: Rodney Curtis, W. N. Byers, George E. Ross-Levin, Thomas Kelly, and William G. Evans. These five and the following were to constitute the Board of Directors: W. F. McClelland, James H. Blood, George H. Holt, Samuel M. Perry. All were of Denver, save Holt who was a citizen of New York.

[4] From the certificate of incorporation filed with the Secretary of State.

[5] Franchises, '07, p. 429.

It will be recalled that, at the close of the preceding period, two water companies, The American Water Works Company of New Jersey, whose stockholders were largely non-residents, and The Citizens' Water Company, whose stockholders were men prominent in local financial and political circles, were still battling for supremacy, with the local company ever proving the stronger. On April 8, 1892, a New Jersey court declared The American Water Works Company to be insolvent.[1] In the succeeding two years, numerous "understandings" were reached between The Citizens' Company and the local representatives of the New Jersey Company, including an agreement, signed April 6, 1894, to stop free water and increase rates to those charged by the Denver Water Company in 1890, and an agreement that the property of the New Jersey Company should be sold for $1,010,000, at a perfunctory foreclosure sale to be held April 21, 1894. The purchaser, it is needless to say, was the Citizens' Company, which thereby secured the monopoly for which it had been working since its organization. On October 18, 1894, The Denver Union Water Company was incorporated with the maximum statutory lease of life, twenty years, to take over all the properties of both The Citizens' and the New Jersey Company ~~and also~~ the properties of the South Platte Canal and Reservoir Company. This latter company had been incorporated, in the January preceding, with a capital of $500,000 and $400,000 in bonds, to build certain large extensions for the Citizens' Company.[2] The articles of incorporation[1] of The Denver Union Water Company declared that it was created "to acquire by purchase all the property, rights, franchises and privileges, including water works, plant, real estate, personal property, all contracts, choses in action, rights, interests, and assets of The American Water Works Company. . . . The Denver City Water Works Company, The Denver Water Company, The Denver City Water Company, The Denver City Irrigation and Water Company The Domestic Water Company, The Beaver Brook Water Company, The Mountain Water Company, . . . and the Citizens' Water Company. Also to maintain and operate the water works so acquired," make "any and all additions thereto . . . and to construct and equip water works elsewhere and for other corporations" and for any other object or purpose of a kindred nature. The capital stock was $7,500,000, $5,000,000 of which was in common, $2,500,000 in preferred stock.[2] In bonds, $8,000,000 were authorized. Yet the assessed value was but $534,300 in 1895 and $696,305 in 1899. A controlling majority of the stock went to those in The Citizens' Company.[3] All of the stock was to be "full paid and non-assessable." On January 21, 1895, the company certified[4] to the Secretary of the State "that the whole of said capital stock has been issued in payment for property now belonging to said company, and that said property was accepted by said company in full payment for said capital stock." The directors[5] were given complete governmental powers. All the franchises ever granted to any of the nine companies named above, totaling three score in number, became the property of the new concern.[1]

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[1] American Water Works Company v. Farmers Loan and Trust Company, 20 Colo., 2.

[2] January 13, 1894. It was to build the Cheesman dam, the Platte Canon reservoir, the Platte Canon filter plant, and other extensions in Platte Canon. W. S. Cheesman was President, D. H. Moffat, Treasurer, and W. P. Miller, Secretary.

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[1] Folio No. 17,627, Bk. 38, Dom. Corps., Office of Sec. of State.

[2] The preferred stock was "entitled to a non-cumulative annual dividend of five per cent. out of the net earnings of the company before any dividends shall be paid upon the common stock." All stock had like voting power.

[3] To the Citizens' Company people went $4,000,000 of the common, $1,250,000 of the preferred stock, and $2,500,000 of the bonds. Of the remaining bonds $1,000,000 was set aside for future operations. J. Warner Mills, *Arena*, 34; 391.

[4] Folio 17,627. Sec. of State's Office.

[5] The incorporators were Walter S. Cheesman, David H. Moffat, George W. Clayton, Thomas S. Hayden, and Moses Hallet, who were

The new company leased from Denver the water plant which had been owned by South Denver,[2] before that town had been annexed to Denver; secured a franchise from Barnum;[3] obtained rights to make extensions in Monctlair;[4] and was pushing on to other endowments from the public, when its control was, for four years, questioned by the victory at the polls of those opposed to the public utilities' legislating for themselves.

It has been noted that section five of the ordinance passed on April 10, 1890, provided that "at any time after five years from date, the City Council may require said company to fix schedule rates for private consumers equivalent to the average rate prevailing in the cities of Chicago, St. Louis, and Cincinnati for the same service." This five-year term expired on April 10, 1895. The leading question in the municipal election of the month following was whether reliance should be placed in the company to live up to this section or whether a municipal water system should be built by the city. The water company, through the regular party

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also named as Directors, and Erastus F. and Charles Hallack. The directors, in addition to those above named, were D. A. Heald, Geo. Coppell, J. B. Grant, and T. C. Woodbury. These same men were still Directors in 1900, save that D. C. Dodge was filling the place vacated by Geo. Clayton.

[1] Including a franchise to The Citizen's Water Company, granted by Globeville, March 31, 1894, and one to The American Water Works Company, granted Jan. 29, 1894. Franchise, '07, pp. 657 and 627.

[2] Until April 10, 1910, the Water Company to pay as rent to Denver "per annum the sum of six per cent. upon the appraised value thereof." Its value was appraised at $147,540.76. Franchises, '07, pp. 671 and 675. Appraisement was made on April 8, 1895.

[3] Until April 10, 1910. Granted May 5, 1896. Barnum was to pay $40 per hydrant. Reserved the right to pass ordinances for the "health, safety, and peace of said town."

[4] July 23, 1896. Franchises, '07, p. 734.

machinery, nominated its ticket; those that preferred municipal ownership or any solution, other than a supine reliance upon the company, nominated theirs. The President of the Water Company in a public letter assured the electorate that his company stood "ready at any time to take this matter up and adjust the rates in accordance with the terms of this contract." The candidates on the company's tickets signed a written pledge that they would see that the provisions of the section were carried out. At the election a council was chosen whose lower house was evenly divided on the question. Finally, however, after many long sessions, a measure prepared by the water company passed both houses of the council. Mayor McMurray promptly vetoed it, and it could not be passed over his veto. On October 2, 1895, the council, in response to an injunction from the courts, demanded of the Water Company that it fix its rates in accordance with its contract. The company, which a short time before, was promising to carry out the section, now contended that the provision was wholly impracticable in that the Chicago rates were based on frontage and fixtures used, the Cincinnati rates on floor area and fixtures, the St. Louis rates upon location of property, number of rooms and fixtures used, and that the three methods could not be reconciled or averaged. For this "impracticable" scheme, the company voluntarily substituted a new schedule, which, it claimed, lowered the rates twenty per cent. for general service and forty-five per cent. for irrigation. Here the matter rested until the spring election of 1897.

In this election the water question was the sole issue. McMurray and all his ticket, "with the help of the Civic Federation and the vote of the women," was re-elected. Many water users then refused to pay their rates, and the struggle was on in earnest. On April 29, 1897, the council passed an ordinance[1] declaring that the company had "failed and refused to comply with" the "resolution of the city council of October 2, 1895, and is now charging rates in defiance and disobedience of said requirement of the city council" and that the company should, within ten days, lower its rates as required by the ordinance of October 2, 1895. With this demand the company made even no pretense to comply, and, therefore, on March 21, suit was brought, at the instigation of Mayor McMurray, in the District Court of Arapahoe County, to compel the company to comply with its contracts. Judge Le Fevre not only supported the company's claims that the section was impracticable but ordered it to raise its rates and this decision the State Supreme Court upheld.[1] Pending these decisions, Mayor McMurray and his council had continued their attempts to get a lower rate. On July 28, 1897, an ordinance[2] was passed specifying heavy fines for each and every time the company collected its existing rate; a heavy fine for each day that the company failed to supply water "of as pure and wholesome a quality as that shown by the analysis of Professor Joseph A. Sewall;" the ordinance averring that the company had been furnishing "impure and polluted water"; and a heavy fine for each day the company failed to get its pressure up to the required standard, which it had, "for some time past failed and still wantonly fails" to do. The ordinance was not enforced. The mayor and council, with the courts against them, were impotent. In 1899, McMurray stood for a third term. The corporations all contributed[3] bountifully toward his defeat. He was defeated and not until 1910 was the control of the city's government by its public utilities again seriously menaced.

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[1] Comp. Ords., '98, p. 990. Franchises, '07, p. 677. Elyria had passed a similar ordinance on March 3, 1896. Franchises, '07, p. 688.

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[1] Denver v. Denver Union Water Company, 41 Colo., 77. (It refused to take original jurisdiction in the September Term of 1899. Ibid., 26 Colo., 413.)

[2] Franchises, '07, p. 679.

[3] *News-Times* answer to Evans's Damage suit (*News*, May 24, 1910) offers to prove one donation of $7,500 by William G. Evans.

In the autumn of 1899, there was another unsuccessful attempt to secure municipal ownership of the water supply. The city council submitted to the city electorate, at a special election held on the day of the county election, November 7, a proposal to issue $4,700,000 in bonds, either to purchase the existing system, which the company offered to sell to the city for $9,000,000, and which the city engineer, in a careful report, estimated to be worth $3,763,617, or to build a system by and for the city. This proposition the electorate approved by a vote of 5,420 to 2,976 but, on February 4, 1901, the United States Circuit Court for the District of Colorado[1] declared these bonds invalid on the grounds that they were voted at a special election, that the two propositions to purchase and to construct were not submitted separately, and that the city, during the life of the company's franchise, could not construct new and competing works. This was the last attempt made toward municipal ownership before 1910.

It will be recalled that, at the close of the preceding period, The Denver Consolidated Gas Company and The Denver Consolidated Electric Company had each obtained a monopoly of gas and of electric lighting, respectively. During the earlier years of this period, several gas and electric companies obtained franchises from the towns around Denver, but these were either auxiliary companies or companies that the Denver concerns were willing should develop the local demand.[2] In no sense were they competitors with the Denver concern. On April 17, 1894, Denver contracted with the Consolidated Electric Company to light the city.[3] The city agreed to pay $10 each per month for not less than 521 arc lights and $2 each per month for nearly as many incandescent lights. To the city light inspector was given "at all times . . . full and complete power of inspection of all the works, lamps and other appliances used in furnishing light" to the city, with full power of ingress into the company's works for purposes of inspection. This applied solely, however, to the lights used by the city; it did not apply to lights used by private consumers; nor did the company's franchise provide for inspection in the interests of the private consumer. This contract was limited to the year[1] in which it was granted. On April 6, 1895,[2] the council "authorized and empowered" the mayor "to enter into a contract with" this same company "for furnishing electric currents to the 605 arc lamps and 440 incandescent lamps now installed in said city for its use," the contract to "conform in all essentials" with the contract granted in 1894. There was no time limit put upon the contract. In the half decade following, no change was made in the price the city paid for public lighting, the city's public lighting bill amounting to nearly $200,000 annually.

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[1] Grant v. City of Denver.

[2] The Denver Highlands Electric Company received a franchise from Barnum on August 11, 1893 (amended August 26, 1896. Franchises, '07, p. 94), a lighting contract from Colfax on February 20, 1893 (ibid., p. 99), a franchise from Highlands for both electricity and gas, and also a contract to light the town (ibid., pp. 100, 103–5). Globeville enfranchised The Globeville Electric Company on January 10, 1893 (ib., pp. 107 and 110), and Highlands gave the Highlands Gas Company a gas franchise on June 23, 1896 (ibid., p. 110).

[3] Franchises, '07, p. 14.

Competition between the two lighting companies continued, nominally at least, until April 26, 1899, when The Denver Consolidated Gas Company and The Denver Consolidated Electric Company were consolidated into The Denver Gas and Electric Company, thus merging all the lighting interests of the city. The incorporation articles empowered the new company "To construct, purchase, lease or otherwise acquire, maintain and operate plants and works for manufacturing, generating, producing, supplying and distributing gas, electricity, and steam" and the pipes, mains, and appliances necessary to their distribution in the counties of Denver, Arapahoe and Jefferson," and elsewhere in the state of Colorado. Its term was twenty years; its capital stock $3,500,000, $1,300 of which, the company later certified,[1] was "paid in cash," the balance, $3,498,700, being "issued in the purchase of certain gas and electric properties . . . of the value of $3,498,700." Bonds were soon issued to the amount of $7,810,000. While the public was paying rates to support this capital of $11,308,700 the company was paying taxes only on $1,210,940. The company's directors[2] were given uncontrolled powers of government, and were authorized to meet without, as well as within the state.

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[1] The contract was from March 1, to December 31, 1894.

[2] Franchises, '07, p. 39.

For nearly a year this company was unquestioned master of the lighting field. Suddenly, early in 1900, a competitor, The La Combe Electric Company, enticed by the promising yield of a field so rich and large, secured a franchise[3] framed for real competition. In this franchise the new concern agreed to furnish, subject to full inspection by the city electrician, arc lights for the city, for a ten year period, at $7.50 per month for each of 1,000 arc lamps, and $70 per year for each arc lamp in addition thereto. The existing company had long been charging $10 per month for similar arc lamps. The new concern agreed to furnish private incandescent lighting for not over 10 cents per kilowatt hour; the old company had been charging 15 cents. Moreover, the new concern agreed to sell its street arc lighting plant to the city at a price varying from $230,000 the first year to $40,000, the tenth. The city was also privileged to buy the company's commercial lighting plant at its appraised valuation at the expiration of the periods of ten, fifteen or twenty years. La Combe, moreover, agreed to pay into the city treasury annually three per cent. of the gross revenue from his commerical plant and also agreed not to sell to or combine with any existing lighting corporation. The franchise granted, a fierce rate war ensued, for a monopoly was far more valuable to the existing company than a share of the field was to the new. Rates were reduced to 2½ cents per kilowatt hour, the new concern was wrecked, and, despite its franchise agreement, sold electric current at agreed rates to The Denver Gas and Electric Company; this practically consolidated the two companies. To this, the friendly city government raised no objecting voice. The Denver Gas and Electric Company then went into bankruptcy and an accommodating court, as was the company's plan,[1] ordered the cancellation of all contracts made at a lower rate. And this order the court made that the company's creditors might not lose property by other than *due process of law!*

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[1] Before their consolidation, The Denver Consolidated Gas Company, with a capital stock of $1,500,000 and bonds amounting to $974,526, was assessed for $188,110. The Denver Consolidated Electric Co., with $1,000,000 in capital and $1,000,000 in bonds, was assessed at $265,910. *Arena*, 34; 488.

[2] The directors were Elroy N. Clark, Herman H. Dunham, and Charles W. Waterman, the incorporators of the company, and Geo. T. Thompson, W. W. Field, W. S. Van Sann, J. B. Liverman, S. W. Cantrell, Frank H. Duprey, Guy Young, Angus M. Ward and William A. Burke.

[3] Franchises, '07, pp. 112, 140 and 144. Granted March 30, 1900, but regranted with amendments as above on February 14, 1901.

It has been noted that, on January 5, 1880, the Denver Steam Heating Company was given a franchise unlimited as to time. The company had been incorporated on December 15, 1879, for twenty years. At the end of that time, it was re-incorporated for another twenty years and then, in spite of its unlimited franchise, was compelled to seek another. This was granted on October 15, 1901.[2] This was a practical admission that the Tramway's franchise would likewise have to be limited to twenty years after the incorporation of the company that secured it. As usual, railroads were freely given street privileges. The Colorado Telephone Company did not ask franchise privileges from Denver during this period, but it did secure twenty-year franchises from four neighboring villages later included within Denver's limits.[3]

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[1] See *The Arena*, 34; 489.

[2] Franchises, '07, p. 349.

[3] Globeville, February 7, 1893; Elyria, November 17, 1896; Berkeley, July 11, 1898; Valverde, May 26, 1899; Franchises, '07, pp. 614, 615, 617, and 622.

Other sundry companies were also gratuitously endowed with street rights.

The tendency in the preceding period was for a monopoly to appear in each distinct field of public service, and then for each of these monopolies to interest itself in its own behalf in the city government. The tendency in the period under discussion was for monopolies formerly distinct to unite, either by actual consolidation or by tacit consent. Their community of interests was best furthered by common action. The gas and the electric companies consolidated. The Moffat-Evans-First-National-Bank group of capitalists dominated both the Water and the Tramway company. By 1899, that is, there were not over three distinct interests, the lighting, the water-tramway, and the telephone interests, engaged in the leading public services of the city. Each had an entire monopoly in its own field, as contrasted with the score and more concerns interested in these same services just ten years before. These three interests were now moved by the same motives and were fast becoming a unit, were, indeed, already a unit in their control of party and governmental machinery.

Just as far-reaching in its significance is the fact that these three interests were correlated with the larger industrial corporations and problems of the state. The Tramway was concerned (1) with inter-urban development, (2) with the railroads of the state, especially with the famous Moffat Road, (3) with the state's fuel supply, through the mammoth coal beds of Routt County, tapped by the Moffat Road, and (4) with the water power in the state, through The Tramway Power Company. The Water Company was concerned with irrigation, with water rights, and the statutes of the state pertaining thereto. The Lighting Company was also interested in the water power and electrical development in the state; the Telephone Company in the telephone service everywhere. The state's every leading industrial interest, that is, was closely linked with Denver's public utilities. Control of both lay through control of party machinery.

The industrial interests that wanted their will expressed through the Denver government, had equal reasons for using for their ends the state government and the state party. In these facts lie the explanation and essence of actual government in Denver.

### THE HOME RULE MOVEMENT.

Numerous indeed were the defects in the form of city government as outlined above. One by one these defects were revealed and, gathering force with each revelation, a popular demand arose for a thorough-going revision. This demand, together with the other forces now to be discussed, ripened by the end of the period into a constitutional amendment granting to the city "home rule."

The defect that first challenged public attention was that the city's most pertinent interests were, through the two state-appointed boards, determined in the Governor's office. In the very first year of the period, a dramatic clash between Governor Waite and his Fire and Police Board brought out this defect and impressed every citizen with the disadvantages of not having local affairs locally determined.

Governor Waite was a Populist; Denver was, and had long been, irretrievably Republican. Governor Waite was an honest and irate believer in the suppression of all gambling and vice and hence used all his power for the enforcement of the state laws pertaining thereto; Denver had always been rather tolerant of such vices, though not always more so than other large cities, and laws and ordinances pertaining thereto were just sufficiently enforced to prevent an outbreak of adverse public opinion. Preceding governors were in sympathy with the policy of the leaders in Denver, political and governmental, and hence there was no friction as to political offices or law enforcement; but all was different with Governor Waite. He was impulsive, sure of the eternal righteousness of his convictions, and could brook no control. Here was a basis for a lively conflict and it was not long in coming.

The Governor's Fire and Police Board had been in office scarcely two months when there arose, between the Board and the Governor, a decided difference of opinion as to the enforcement of the state laws on gambling. This difference grew more marked with each passing day. Finally on June 12, the Governor asked the police commissioner, one George H. Phelps, whom he had appointed but four months before,[1] to resign, stating his reasons for the request to be that Phelps had "lost the confidence of the majority of the citizens of Denver" and "that the good of the Populist party in Colorado demanded it." As has already been noted, the Governor could remove any member of the state-appointed boards for any reason other than a political one. But Phelps declined to resign. The Governor[2] thereupon summoned him to his office to show cause why he should not be removed. Phelps appeared. He asked for, and was denied, right of counsel or right to have witnesses heard in his behalf, and, together with another member of the Board, C. B. Stone, the fire commissioner, was, in writing, summarily removed from office. The reason given for the removal was "neglect of duty." Phelps appealed to the Supreme Court for relief, but this the Court denied him, holding[3] that the Governor was not bound to allow counsel nor to examine witnesses and that his right to remove was plenary, so long as he put his removal order in writing, and gave other than a political reason.

The positions of these two men were filled on June 19 by the Governor's appointing thereto Jackson Orr and A. J. Rogers. In time, the second act of the drama opened with two new principals, Jackson Orr, the Populist fire commissioner, and D. J. Martin, the Democratic excise commissioner. They, too, had become neglectful of the gambling ordinances and laws. On January 19, 1894, the Governor summoned them before him to show cause why they sould not be removed on the grounds that they were protecting gambling houses in Denver. They appeared in person and by counsel, admitted that they had appointed special policemen to be present at certain gambling houses, but averred that this was done, not to *protect* gambling, but to enforce the law that *no minors should be allowed in such places*. The Governor reminded them that, in their zeal to enforce law, they had best first enforce the law that suppressed *all* such dives instead of appointing a policeman to protect them in all that they did *save* to admit minors. He reminded them that the law not only required such dens to be suppressed, but authorized the officers of the law to break into them and seize all their "machinery of vice." Admonishing the commissioners to enforce the law abolishing gambling, the Governor allowed them to return to their positions. He was soon convinced, however, that they were still protecting gambling despite his order. On March 7, he removed them, in writing, for protecting gambling contrary to law. He at once appointed their successors.

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[1] On April 4, 1893.

[2] On June 13.

[3] 19 Colo., 187.

But when these new appointees appeared to take over their offices, Orr and Martin openly refused to comply with the removal order. The events that followed can be given largely in the Governor's own words, thus preserving the spirit of the contest. Not only did said Orr and Martin refuse to obey the removal order, averred the Governor in an appeal to the Supreme Court,[1] but they "caused to be placed about" the City Hall "armed bodies of men for the purpose of setting said removal at naught," and moreover "exacted pledges from a large number of the members" of the fire and police forces that they "would resist by the use of force and arms . . . any and all attempts" to make "said removal" effectual. The Governor waited a week for compliance with his order; but no compliance was forthcoming. He thereupon "publicly declared" that he would make "said order of removal effectual," upon which, "the said Orr and Martin caused large bodies of men other than the fire and police force . . . to be supplied with firearms and other dangerous weapons and placed in and about said City Hall," and caused to be stored therein "a large quantity of dangerous and explosive material . . . to be used for the purpose of resisting any and all efforts" toward their removal. The city was thus left "unguarded," "unprotected from the ravages of fire," its property "subject to pillage and destruction." The Governor, being in duty bound to "execute the laws," which he interpreted to mean that he should "carry into effect any order of removal that he might make," on March 14, "called upon a number of the military forces of the state . . . to assist in the enforcement of the laws of the state and in the removal of said Orr and Martin." These forces assembled in the city the next day and were at once ordered to the City Hall. There they were "met by an armed body of not less than three hundred men, stationed in and around the said City Hall, supplied with firearms and other dangerous weapons, and with dangerous explosives," with orders to resist the removal "to the extent, if necessary, of taking human life." Bloodshed was imminent and momentarily expected by everyone. A "large number of Denver's citizens," and especially the Chamber of Commerce, at once besieged the Governor with pleas to prevent the destruction of life and property. Thereupon he sullenly refrained from pressing the attack but "ordered the militia to remain under arms," and called upon the National Government, again at the instigation of the Chamber of Commerce, to send United States soldiers to his aid. Some 350 of these were brought from Fort Logan and stationed within the city. The Governor also ordered all the state National Guards, not as yet in service, to "place themselves under arms in their respective armories, subject to the call of the Governor." And finally he ordered a "new fire and police force" to be organized, and held in readiness for the conflict.

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[1] In Retire and Excise Commissioners, 19 Colo., 482.

Such was the climax, a situation indeed "grave and critical." City, state, and national police and military forces stood ready to enforce the removal of the Governor's appointees and to induct their successors into office. At this juncture, the Governor, upon pressure from the Chamber of Commerce, appealed to the Supreme Court[1] to pass upon, not the wisdom, but the legality of calling out the military forces at his command in order to induct into office the new, and remove from office the old fire and excise commissioners. The Governor urged that the "situation was so grave and critical as to demand the instant attention and the speedy decision of the court." The Court speedily answered[2] that the Governor's power to remove the officers in question, within the limitations of the statutes, was undeniable, but that the officials whom the Governor sought to remove, had the right to appeal to the courts and see that the provisions of the statute as to removal were duly complied with. The Court held that it could not give an opinion as to whether the officials were legally removed until they had presented their side of the case in court. Until the incumbents had been heard in court, and it had been judicially determined that all the provisions of the removal statutes had been complied with, the Court went on to say, the Governor, under his power to execute the laws, could not call out the military forces of the state to induct their successors into office,[3] especially when they were purely municipal officers, as these were.

The case, on Saturday of March 31, was regularly brought before the Supreme Court. The Court promptly handed down its decision[4] on the Monday following, a fact to which it petulantly called attention, adding that, though many days had passed since the struggle was begun, this was the first regular appeal to the courts. The respondents in the case averred that the reason assigned by the Governor for their removal, that they were protecting gambling, was not his actual reason, but that their removal was "made for political reasons and for no other cause." This contention they offered to prove. They averred that the Governor had requested them to remove certain employees in order that their vacancies might be filled by "members of the same party faith and affiliation as the Governor." But the Court held that its only power was to see that the removal was made in writing, and that other than a political reason was assigned for the removal. This the Court found had been done. It refused to inquire into the validity of the reason the Governor assigned. "The words of limitations, forbidding removals for political reasons," said the court, "cannot, as the statute now stands, be given practical effect, except as they operate upon the conscience of the executive, and so restrain and control his official conduct."

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[1] Under Section 3, Art. V, of the Constitution which reads: "The Supreme Court shall give its opinion upon important questions when required by the Governor, the Senate, or the House of Representatives."

[2] 19 Colo., 482.

[3] The Court later upheld the same principle in two opinions: 19 Colo., 409, and 21 Colo., 14.

[4] People vs. Orr and Martin, 19 Colo., 565.

The Governor's power of removal being thus upheld, his new appointees were ushered into office and the military forces were disbanded. But the incongruity of having city officers appointed by the Governor, the certainty of conflict between state standards and local usage under such a regime, and the bad policy of having the most important municipal departments filled by party devotees, was forever impressed upon the minds of the Denver electorate. The demand that the city's government be taken out of the Governor's office became persistent and city selection of city officials became a vital part of the home rule movement.

No sooner was the diffused, decentralized, inefficient structural plan, provided in the charter of 1893, put into operation, than it began to reveal its all too numerous defects. Its superabundance of uncorrelated, independent boards, executives, and quasi-legislative bodies soon led to a business inefficiency that became more and more marked as the demand for economy grew less persistent. That there should be a change in the city's governmental plan was inevitable. The only question was when and by whom that change should be made. For the reasons already given, favorable local legislation could not readily be secured from every legislature of the period. Moreover, the amending of the charter by the legislature meant that party tests rather than efficiency tests would determine the character of the amendments. Four or five years of experience under the charter, coupled with suspicion as to the value of legislative amendments, led to a movement for a locally elected charter convention that would devise a governmental plan which would make possible, at least, business efficiency.

The movement for securing divorce from the domination of state political parties received a decided impetus in the municipal elections of 1895. In the thirty-four years of its corporate existence, Denver's municipal elections had known no other than "straight" Democratic or Republican tickets. The political situation before noted, however, necessitated a new alignment, and, more pertinent still, local questions, public service questions, particularly, assumed greater importance than party considerations. Hence there was elected in this year, headed by T. S. McMurray, a non-partisan ticket, pledged to reforms and economy. On a similar platform, McMurray was re-elected in 1897, thus giving the city four years' experience under a government conducted for the city rather than primarily for party and public utilities. The strength of this independent movement is revealed by the fact that McMurray was nominated for a third term in 1899 and polled 8,172 votes as compared with 9,324 votes for the mayor on the successful ticket, and as compared with 7,999 votes for the straight Republican ticket and 7,351 votes for the Teller Silver Republican ticket. In the campaign certain members of the Democratic party, motivated and financed by the city's public service corporations, organized the "big mitt," the famous ballot-box stuffing brigade. By many it is charged and believed that McMurray's defeat was due solely to ballot box stuffing. The successful ticket, it is worthy of note, was Democratic, "the first practically complete Democratic administration in Denver's history."[1] The success of a non-partisan movement and the introduction of "big mitt" practices gave a decided impetus to the movement for a divorce from state party that local issues might be the sole issues in municipal elections and that municipal officers might be chosen primarily for municipal rather than for party and corporate purposes.

The inconveniences of state legislation extended to the powers that the city could exercise. So long as these were enumerated in detail, as they always had been, and always must be, under the American municipal scheme, save in home rule cities, the city was wholly at the mercy of the state legislature. In previous periods, Denver had met with no persistent difficulties in getting any powers that she wished, but the political situation now was such that the enumeration of any new power or the extension of any former power would be closely scrutinized. A constitutional amendment, granting to the city every power of a local and municipal nature, would dispense with all this. Then the city would have only to read the constitutions, state and national, to find out what it might *not* do, instead of scrutinizing innumerable legislative enactments to find out what it *might* do. This vesting the city with every power, residual or express, needed for local purposes, presented great advantages, advantages that were not appreciated at the time, however, nor have they been appreciated by other cities in home rule states that have not taken advantage of their opportunity thus to enlarge their powers.

Another factor, influential with many voters who would otherwise have been indifferent to a constitutional amendment, was the desire to unify Denver's school system into one district under one administration. It has been noted that the charter of 1874 made the boundaries of School District Number One co-extensive with the boundaries of the city. But none of the many additions made to the city after the adoption of the constitution in 1876 could, by the charter, be included within District Number One. Hence, by 1899, many other districts had been entirely or partly included within the city's limits. Moreover, District Number One now comprised the largest part of the business section and thus had a small school population with a large amount of valuable property. To equalize taxation, centralize school management, and save expense, the consolidation of the city's school districts into one district was widely urged. The Legislature of 1899 passed an act specifically consolidating certain of these districts, but it was vetoed by the Governor on the ground that it came within the field of the kind of local and special legislation that was prohibited by the constitution. The Supreme Court, upon legislative request, also held the law to be unconstitutional. The legislature made no attempt to pass the law over the Governor's veto. The succeeding legislature sought to attain the same end by authorizing all school districts organized and existing under general law to consolidate "with school districts organized and existing under special charters," the professed, sole purpose of the act being to permit districts number 27, 17, and 21, especially, to unite with District Number One of Denver. No sooner was the bill introduced in the Senate, however, than its opponents raised the objection that it was unconstitutional, and succeeded in getting it sent to the Supreme Court for an opinion as to its validity. The Court[1] held that the law was but an attempt to do in general terms what the Court had already held could not be done in express terms and so was unconstitutional. The Court's opinion stated very clearly that no law consolidating such districts could be valid, unless it specifically provided that every district concerned in the consolidation should give its consent. Now this consent the resident voters of District Number One would never give, as consolidation would quadruple their tax rate. The consolidation desired could, therefore, not be obtained by legislation. However, it could be effected by constitutional amendment. This fact secured many adherents for the home rule plan.

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[1] Smiley, "History of Denver," p. 639.

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[1] 26 Colo., 136.

In addition to the towns that had voluntarily consolidated themselves with Denver, as noted above, there were several other outlying suburbs and suburban districts which had many interests in common with Denver. Numerous were the advantages that would accrue to all these suburban sections as well as to Denver, if they should all be incorporated within the limits of Denver. The administrative and constitutional hindrances to such consolidation, already pointed out, made the creation of a Greater Denver by legislative measures quite improbable. Moreover, there had always been numerous interest conflicts between the urban section of Arapahoe County and its vast semi-agricultural section, which stretched eastward to the Kansas line, a distance of over one hundred and sixty miles. It was now proposed to create out of the western end of Arapahoe County a small county of homogeneous interests. In a few states, county and city governments had been created with coextensive boundaries and with a single set of officers for both city and county. To create a city and a county that would include the homogeneous urban district, that would consolidate the two governments, thus making for economy and centralization of responsibility, and that would make county and city affairs subject to identical elections, offered a solution to Denver's governmental and business problems that appealed to the good business sense of many a Denver elector. This could be done, however, by constitutional amendment only, and hence another favorable influence was put back of the home rule movement.

And, finally, a constitutional amendment offered avenues for the expression of new laws for the control of public service corporations. The contests over franchises, the growing importance of public service interests, the growing danger that the public service corporations would forever dominate the government of the city, had prepared the Denver electorate for more advanced public service legislation. The incorporation of such legislation in a constitutional amendment, where it would be safe from legislative intrigues, appealed to another class of Denver voters.

The home rule movement took definite shape in 1898, when the non-partisan city council passed an ordinance[1] providing for a charter convention. Among the members of this convention were the Hon. John A. Rush, who later became state senator and secured the submission of the home rule amendment, Mayor T. S. McMurray, and the Hon. J. Warner Mills. All of these were afterwards members of the first "home rule" charter convention. This charter convention of 1898 started out bravely, but as soon as the section on public utilities was adopted, providing for stringent regulation, many of the delegates absented themselves, so that no quorum could thereafter be obtained, and the convention ceased to exist. But under the constitution and statutes of the time, the action of such a convention would be but recommendatory, at the most. Moreover, the city's governmental affairs could never be taken out of the state house, whether it was the question of state appointed boards, or the creation of a decent structural plan, so long as the charter was the football of each successive legislature. Furthermore, the grant of full local and municipal powers, the consolidation of school districts, the creation of a consolidated city and county with co-ordinate limits and identical governments, the placing of certain rules as to public utilities beyond legislative manipulation, could be brought about only by constitutional amendment.

Happily, the National Municipal League was just at this time emphasizing the advantages of, and pointing out the procedure for securing, home rule. During the session of the Fusion Legislature of 1899 there was much talk, both in the Legislature and out of it, about home rule for Denver, but the session closed without action. Mr. Rush and Mr. Mills were especially active in their efforts to secure favorable action, but party politics and the influence of the public utility corporations proved too strong a barrier. The agitation for home rule was continued with increasing vigor until the legislative session of 1901, when Hon. John A. Rush, then state senator, introduced a bill, submitting to the state electorate a home rule amendment to the constitution. Aid in its passage was secured by a clause in the amendment that extended like privileges of home rule, though not of county and city consolidation, to all the cities of the first and second class, all cities, that is, with a population of over 2,000. The amendment duly passed the legislature, and was ratified by the state electorate at the general election of 1902, by nearly 35,000 majority.

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[1] Ordinances, 1898, p. 1282. Approved May 14, 1898.

In local parlance, this home rule amendment is usually called the "Rush Bill," because of the prominent part Senator Rush played in securing its passage and adoption. The courts usually refer to it as "Article Twenty" because it is the twentieth article in the state constitution. Its purpose was to secure for Denver actual home rule. Its provisions, its trials in the courts and its results to Denver, are considered in the succeeding chapter.

# CHAPTER VI.

## 1902–1911.

## HOME RULE.

### THE SOCIAL AND INDUSTRIAL BACKGROUND.

During this period a wave of prosperity has swept over the state equalled only by the great industrial boom of the later eighties, and excelling the prosperity of that period in that it is more stable and based solely on realities.

The total precious mineral yield for 1910 was $44,403,920,[1] greater than any year in the state's history, and showing an entire recovery from the two bad years following the panic of 1907. The state's gold output jumped from $21,946,684 in 1909 to $29,190,115 in 1910, again making Colorado the leader of all our states and territories in gold production. In this same decennial year of 1910, the state's 178 coal mines produced 12,104,887 tons of coal, 70,586 tons of which were anthracite. Her oil wells in that year were valued at $4,219,695. Her wealth of building stones—marble, granite, sandstones, and lava—are just beginning to be appreciated.

The state engineer reported, for 1910, that there were 2,250,000 acres of irrigated land in Colorado, but the State Labor Commissioner, in his report, showed that the actual acreage under irrigation was from 2,750,000 to 3,000,000. Colorado now vies with California for first place in the total amount of irrigated lands. The state has as many more acres in her dry farming and high farming, the former chiefly in the eastern part of the state, the latter solely in the plateau regions. The year 1910 was not a good year for agricultural products in Colorado, yet the value of the grain produced in that year was $16,632,000; in 1909, a typical year, it was $22,843,000. In 1910, $4,375,000 was paid to the farmers of the state for 806,000 tons of sugar beets, giving an average gross revenue per acre of $64.50. The state's fruit production for this same year was valued at $3,463,676.40. This industry has been made sure and stable since the introduction of smudge pots, which have proved amply capable of preventing ravages by frost.

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[1] Of this amount, $29,190,115 was in gold, $5,809,926 in silver, $3,331,579 in lead, $1,590,836 in copper, $3,014,664 in spelter.

The state's power possibilities are best pictured by the fact that nearly all of the water in her every mountain stream falls from 2,000 to 6,000 feet in 50 miles. For the purpose of utilizing some of this power, great power projects have been organized and put into operation. The electricity therein generated is being used in mines, for lighting, for street railway power, etc., but more especially, and herein is its great future, in manufacturing. In 1908,[1] there were nearly 2,000 manufacturing establishments in the state (exclusive of the steel plant at Pueblo, twelve smelters, many cigar factories, and numerous saw mills), which represented an invested capital of over $116,500,000, an annual pay roll of $38,675,000, and an annual output of $185,200,000.

Other means and evidences of the state's prosperity and outlook are abundant. The state's highway commission, in 1910, built 1,643 miles of state highways. Recent legislatures have all appropriated liberally to such internal improvements. In the same year, 107 miles of new railway were constructed in the state at a cost of $3,570,000, and 250 miles are planned for 1911 at a cost of $15,000,000. In the report called for by the national monetary commission, made April 28, 1909, Colorado was first in bank resources per capita among the western states, having $250.65 per capita. The assessed valuation of the state increased from $192,243,080 in 1898 to $375,284,970 in 1908, nearly a two-fold increase in a decade. The assessed value represents scarcely one-fourth of the real value. The state's population increased from 539,700 in 1900 to 799,024 in 1910.

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[1] Report of Bureau of Labor Statistics, 1907-08, p. 38.

This industrial activity in the state was reflected in a marked increase in the wealth and industrial future of its metropolis. A few concrete instances will suggest Denver's growth and outlook. The estimated value of the products of her manufacturing establishment increased from $26,000,000 in 1900 to $60,000,000 in 1910. In the five years from 1904 to 1909 the number of manufacturing establishments in the city increased from 722 to 766, their capital increased 73 per cent., their products 41 per cent. The recent rate decision by the interstate commerce commission, cutting western rates fom 40 to 30 per cent., will greatly enhance the growth of Denver's manufactories. That the city is the emporium of a vast region, is shown by the fact that her jobbing sales for 1910 totaled $15,000,000. Her assessed valuation, which but feebly reflects her wealth or growth, increased from $122,356,680 in 1908 to $135,467,050 in 1910. The city's population was, in 1910, 213,381, an increase of nearly 80,000 over 1900. Part of this increase, to be sure, was due to the enlargement of her boundaries to include contiguous municipalities, but the larger part of it was due to wholesome growth. Her future seems bright indeed. With a beautiful location and an ideal climate, the natural capital of the precious mining industry, the center of a rich irrigated section, surrounded by a vast amount of coal and an endless amount of water power, with commercial opportunities unequaled, with the enthusiastic support of a citizenry wide awake to her charms and her future, she is sure to become the metropolis of the vast resourceful region that stretches between the Missouri river and the Pacific.

## THE HOME RULE AMENDMENT AND CHARTER.

The first section of the home rule amendment, which is quoted in full in the appendix, provides that "the municipal corporation known as the city of Denver, and all municipal corporations and that part of the quasi-municipal corporation known as the county of Arapahoe, in the state of Colorado, included within the exterior boundaries of the said city of Denver as the same shall be bounded when this amendment takes effect, are hereby consolidated and are hereby declared to be a single body politic and corporate, by the name of the 'City and County of Denver.'" The statutes in force when the amendment took effect, created the "City and County of Denver," fifty-nine and one-fourth square miles in extent, and embracing within its limits the former towns of Argo, Berkeley, Elyria, Globeville, Montclair, and Valverde.[1] Within the corporate limits of these towns alone were about six thousand people. Moreover, the amendment preserves to the city its power to extend its limits. Section two provides that "the general annexation and consolidation statutes of the state shall apply to the city and county of Denver to the same extent and in the same manner that they would apply to the city of Denver if it were not merged. . . . Any contiguous town, city or territory hereafter annexed to or consolidated with the city and county of Denver, under any of the laws of this state, in whatsoever county the same may be at the time, shall be detached per se from such other county and become a municipal and territorial part of the city and county of Denver, together with all other property thereunto belonging."[2] The title to all property belong-

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[1] The date of organization, population, and date of formal consolidation of these towns were:

| Town. | Organized. | Last Meeting of Board. | Population, 1900 |
|---|---|---|---|
| Argo. | July 19, 1883. | May 8, 1903. | 443 |
| Berkeley. | June 16, 1892. | May 7, 1903. | 707 |
| Elyria. | November 17, 1891. | May 7, 1903. | 1,384 |
| Globeville. | July 9, 1891. | April 21, 1903. | 2,192 |
| Montclair. | November 2, 1888. | May 11, 1903. | 415 |
| Valverde. | September 29, 1892. | May 7, 1903. | 665 |

Berkeley was organized as North Denver on June 25, 1892. On April 4, 1898, its name was changed to Berkeley. Argo was the home of the Boston and Colorado smelters, Globeville of the Globe smelter.

[2] The same Legislature that proposed the amendment enacted a law that no cause then in the courts should be lost because of the merger.

ing to the County of Arapahoe and to the included municipal corporations, together with their debts, benefits, rights, and liabilities, was transferred to the city and county of Denver. The city and county was, and is, endowed with all the powers of a single body corporate. Denver now embraces a homogeneous urban district with ample territory within its limits for expansion. Though a county as well as a city, it possesses a city's power to expand.

Section seven of the amendment merged all the school districts, and parts of districts[1] within the limits of the city and county into District Number One, and declared that the city and county should forever thereafter constitute but one school district. If the limits of the city and county are at any time extended, all the territory thereby annexed becomes merged, for school purposes, into District Number One. Moreover, District Number One became the owner of the property of all annexed school districts. Debts theretofore contracted by the included districts were to be paid by the district contracting them, the central board of education certifying the tax needed for the purpose. Partially included districts are to pay an equitable proportion of the debts that have been contracted by their districts. It is especially provided that a single board of education shall administer all the school "affairs and business" of the city and county, and that "except as inconsistent with this amendment, the general school laws of the state shall, unless the context evinces a contrary intent, be held to extend and apply to the said District Number One." Denver's school are thus unified for taxation, administration, and other purposes.

In addition to vesting the city with all the rights, benefits, and properties formerly possessed or owned by Denver and all of the included municipalities, the amendment specifically gives to the new corporation "power, within or without its territorial limits, to construct, condemn and purchase, purchase, acquire, lease, add to, maintain, conduct and operate, water works, light plants, power plants, transportation systems, heating plants, and any other public utilities or works or ways local in use and extent, in whole or in part, and everything required therefor, for the use of said city and county and the inhabitants thereof, and any such systems, plants, or works, or ways, or any contracts in relation or connection with either, that may exist and which said city or county may desire to purchase, in whole or in part, the same or any part therof may be purchased by said city and county which may enforce such purchase by proceedings at law as in taking land for public use by right of eminent domain, and shall have the power to issue bonds upon the vote of the taxpaying electors, at any special or general election, in any amount necessary to carry out any of said powers or purposes, as may by the charter be provided." The city is thus specifically given full power as to municipal ownership of all its public utilities. The amendment also provides that "No franchise relating to any street, alley or public place of the said city and county shall be granted except upon the vote of the qualified taxpaying electors, and the question of its being granted shall be submitted to such vote upon deposit with the treasurer of the expense (to be determined by said treasurer) of such submission by the applicant for said franchise." Control of public utilities through a referendum on franchises and possible municipal competition was and is thus assured to Denver's electorate.

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[1] Districts numbers 1, 2, 7, 17, and 21 in whole and districts numbers 5, 18, 24, 35, 44, 69, and 98 in part.

The amendment specifically provided for the merging of all city and county officers. Section ~~three~~ declares that, immediately upon the issuance of the Governor's Proclamation that the amendment had been adopted, "the terms of office of all officers of the city of Denver and of all included municipalities and of the county of Arapahoe shall terminate; except, that the then mayor, auditor, engineer, council (which shall perform the duties of a board of county commissioners), police magistrate, chief of police and boards, of the city of

Denver shall become, respectively, said officers of the city and county of Denver, and said engineer shall be ex officio surveyor and said chief of police shall be ex officio sheriff of the city and county of Denver; and the then clerk and ex officio recorder, treasurer, assessor and coroner of the county of Arapahoe, and the justices of the peace and constables holding office within the city of Denver, shall become, respectively, said officers of the city and county of Denver, and the district attorney shall also be ex officio attorney of the city and county of Denver." This is both an abstract and illustrative statement that merging of the two sets of officers is to be permitted. It is of particular import because the Supreme Court has declared such merging to be invalid, and has announced the amazing doctrine that a part of the constitution, already declared to have been regularly adopted by vote of the people, was unconstitutional. The officers thus designated in the amendment are to hold office until their successors are duly elected and qualified, "except that the then district judges, county judge and district attorney shall serve their full terms, respectively, for which elected."

What offices were to be retained, abolished or created, what offices were to be filled by election, and what by appointment, and "the jurisdiction, term of office, duties and qualifications of all such officers" were to be provided for in a charter locally framed and adopted, the only limitations being, (1) that every such charter shall "designate the officers who shall, respectively, perform the acts and duties required of county officers to be done by the Constitution or by the general law, as far as applicable," (2) that all officers of said city or county receiving "any compensation whatever . . . shall receive the same as a stated salary, the amount of which shall be fixed by the charter," (3) (a restriction upon the state legislature, not upon the charter convention) that the city and county should "alone always constitute one judicial district of the state," and (4) that every charter shall "provide that the department of fire and police and the department of public utilities and works shall be under such civil service regulations as in said charter shall be provided." That is, all governmental affairs of both city and county were no longer to be determined by the state legislature but by a charter, framed and adopted by a Denver-elected charter convention.

"Within ten days after the proclamation of the Governor announcing the adoption of this amendment," says section four of the amendment, "the council of the city and county of Denver shall, by ordinance, call a special election, to be conducted as provided by law, of the qualified electors in said city and county of Denver, for the election of twenty-one taxpayers who shall have been qualified electors within the limits thereof for at least five years, who shall constitute a charter convention to frame a charter for said city and county in harmony with this amendment." The members of this convention were to be elected at large and were enjoined to "complete their labors within sixty days after their respective election." All expenses of charter conventions are to be paid out of the city treasury.[1] "The time and place where the convention shall be held" and "the compensation, if any, to be paid the officers and members thereof"[2] are to be specified in the ordinance calling the special election. When the charter convention has completed its labors, the charter[3] must be delivered immediately to the clerk of the city and county. The clerk must then publish the same in full, in the official newspaper of the city and county, three times, a week apart. The first publication must also include the date and call for the special election at which the charter is to be submitted to the electorate for ratification or rejection. If it is "approved by a majority of those voting thereon, then two copies thereof (together with the vote for and against), duly certified by the said clerk, shall, within ten days after such vote is taken, be filed with the secretary of state, and shall thereupon become and be the charter of the city and county of Denver."

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[1] "Upon the order of the President and Secretary thereof."

[2] "Allowing no compensation in case of non-attendance or tardy attendance."

[3] "The charter so framed, with a prefatory synopsis, shall be signed by the officers and members of the convention and delivered to the clerk of said city and county."

As the evident purpose of having the vote, as well as the charter, certified to and filed with the secretary of state, is for publicity and a public record, it is worthy of note, in passing, that these certificates, when filed with the secretary of state, have all been thrown promiscuously into a basement room in the state house and days of work would be required to find any one of them. The same disposition is made of votes on charter amendments, franchises, and other like matters required by law or the constitution to be filed in the office of secretary of state. A better system of filing such documents is certainly needed.

To return to the adoption of the charter, it was noted that if the charter is adopted, it thereby becomes at once the fundamental law of the city. But if the electorate reject it, another special election must be held, within thirty days thereafter, for the election of another charter convention. The same regulations and procedure apply to this convention as to the preceding one. If the charter adopted by this convention is also rejected the procedure must be repeated until a charter is finally approved. A charter once adopted, it supersedes all preceding charters and amendments thereof.[1] The ordinances of former councils remain in force until repealed by the new council.

The electorate of the city and county are not only given

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[1] "If again rejected, the procedure herein designated shall be repeated (each special election for members of a new charter convention being within thirty days after each rejection) until a charter is finally approved by those voting thereon, and certified (together with the vote for and against) to the secretary of state as aforesaid, whereupon it shall become the charter of the said city and county of Denver and shall become the organic law thereof, and supersede any existing charters and amendments thereof."

"exclusive power" to frame their charter, but are also given exclusive power to alter, revise or amend their charter, "adopt any measure," or make a new charter at any time by complying with a stipulated procedure. "It shall be competent," reads section five of the amendment, "for qualified electors in number not less than five per cent. of the next preceding gubernatorial vote in said city and county to petition the council for any measure, or charter amendment, or for a charter convention. The council shall submit the same to a vote of the qualified electors at the next general election not held within thirty days after such petition is filed." If the petition is signed by ten per cent. of such qualified electors, with a request for a special election, such special election must be "held not less than thirty nor more than sixty days from the date of filing the petition." No question so submitted, however, can "again be submitted at a special election within two years thereafter." "Any alternative article or proposition may be presented for the choice of the voters, and may be voted on separately without prejudice to the others." The provisions for publication, for ratification, and for certification to the secretary of state, are the same for amendments and measures thus initiated as those just given for the original charter. "No charter, charter amendment or measure" so adopted or defeated can "be amended, repealed or revived, except by petition and electoral vote."[1]

By this same procedure by which Denver is given autonomy in her own affairs, all cities in the state, of the first and second class, may also, at their option, frame their own charters and secure like powers and privileges. Under this power Grand Junction, Colorado Springs, and Pueblo have adopted a commission form of government of the most advanced type.

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[1] "And no such charter, charter amendment or measure shall diminish the tax rate for state purposes fixed by act of the general assembly, or interfere in any wise with the collection of state taxes."

The amendment secured for Denver all the privileges and powers that the home rule movement had demanded. What home rule was actually to mean, now rested with the intelligence and political acumen of the Denver electorate, with the character of the charter adopted, with the courts' interpretations of the amendment and of the charter, and with the extent to which the state party organizations and the city's public utilities were to be allowed to interfere in the city's business.

The ratification of the amendment at the general election of 1902[1] has already been noted. Governor Orman proclaimed it as part of the fundamental law of the state on December 1, 1902, on which date the city and county of Denver came into corporate being.[2] In accordance with the provisions just noted, delegates to a charter convention were elected on June 2, 1903. An excellent list of delegates was chosen.[3] They held their first session on June 9. The convention framed a charter which was, on the whole, as good a charter as has ever been framed, in recent years, by a similar convention. The large bicameral, district-elected council was abolished, and in its place was established a small uni-cameral council, elected at large, and consisting of a president, to be elected as such, and ten members. The ten members were elected for four-year terms, the president for a two-year term. Six of the eleven were thus elected biennially, thereby assuring continuity in municipal policy, while still securing ample opportunity for the expression of public opinion. With the council, subject to the mayor's veto and to popular control through the initiative and referendum, was vested full legislative power in city and county affairs. The charter provided for a short ballot, the first of modern American charters so to do. In addition to the members of the council, but seven executive officers of the city and county were to be elected, the mayor, treasurer, auditor, assessor, clerk, and two judges of the municipal court. All were elected at the regular municipal election for four-year terms, half of them biennially. Hence the ballot would contain but nine offices. Separate county elections were abolished. The administrative departments were merged for city and county, the appointing power was centralized in the hands of the mayor, and tenure of all officers was fixed uniformly at four years. Elective officials were made subject to the recall. An election commission and a civil service commission were created and vested with adequate powers. In short, a clear-cut scheme of city government was devised wherein large powers were concentrated in a few hands, responsibility unescapably fixed, and full control placed in the hands of the electorate. And, finally, many measures were inserted that would tend to divorce the city government from the control of political parties and public service corporations.[1] Such are the present day tendencies in all municipal charters framed in the interests of the people.

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[1] November 4.

[2] Denver vs. Adams County, 33 Colo., 1.

[3] The members of the Convention were: Irving Hale, President, John A. Rush, Vice-President, L. F. Bartels, Helen Thomas Belford, W. H. Bryant, James T. Callbreath, Jr., Edward Keating, John C. Kennedy, Herbert W. McLauthlin, Thomas S. McMurray, Ellis Meredith, J. Warner Mills, John K. Mullen, T. J. O'Donnell, James H. Pershing, George Richardson, William Stapleton, Guy Le R. Stevick, S. D. Van Meter, Julia von der Leith Welles, and Greeley W. Whitford. John H. Gabriel was Secretary and Lucy E. Peabody, Assistant Secretary.

The charter convention completed its work on August 1 and the charter was submitted to the electorate on September 22. As it made party spoils scarce, through its short ballot, and as it made possible public regulation of utility corporations, it was violently opposed by both the party machines and the public utility trust. It was particularly opposed by the Tramway, because it contained a proviso that "No street railway shall carry freight by virtue of any existing franchise."[1] The Moffat Road was just opening up the Leyden coal fields and Moffat was planning to gain an advantage over his chief competitor, the coal trust, which was in league with the Colorado and Southern, by using his Tramway as a means of distribution. As he was also a large owner in the water works and possessed, through his bank, the First National, and through his control of the political organizations, a dominant influence over all the other public utility corporations of the city, the forces brought to bear against the charter were most potent, and it was defeated. The *News* insisted and still insists that its defeat was due solely to corruption, including the casting of over 10,000 illegal votes.

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[1] Municipal ownership was made easy, all books of public service corporations were to be open to municipal inspection, and franchise grants were carefully guarded.

Two months thereafter, on December 8, a second charter convention was elected, in pursuance of the provision of the constitutional amendment above cited. This convention began its sessions one week after its election.[2] It was composed[3] of an entirely different class of men, moved by entirely different motives. Its chief care was to eliminate from the defeated charter all those provisions that interfered with party, party spoils, and public service corporations. The small unicameral council was displaced by the old bicameral, district-elected council. The number of elective and appointive officers was multiplied. The initiative and referendum provisions were so amended as to be of no worth. The recall was abolished. From the franchise and public service provisions all the teeth were drawn. Public ownership was made so difficult and costly that it would not be resorted to. The civil service was limited to those employees specifically put under the civil service by the home rule amendment. The convention, fortunately, accepted almost all of the provisions of the first charter that related to a structural plan of city government, since it was not primarily interested in an efficient plan, and hence the constructive work done by the first convention in creating an efficient form of government was preserved.

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[1] Art. VIII, Sec. 271.

[2] On December 15, 1903.

[3] Its members were: Rev. C. H. Marshall, president, Harper M. Orahood, vice-president, Charles M. Brown, Thomas F. Daly, Jacob Fillius, John Gaffy, Alice Polk Hill, David K. Lee, Oscar Reuter, Wm. H. Sharpley, Jos. C. Shattuck, August J. Spengel, Hugh L. Taylor, Charles S. Thomas, Edward F. Trunk, Thomas E. Watters, Wm. F. Webb, Clay B. Whitford, Hiram G. Wolff, Benj. E. Woodward, and Adolph J. Zang. C arles W. Varnum was Secretary.

The convention completed its labors on February 6, 1904. The charter was put to vote on March 29 and was adopted. It was filed in the office of the secretary of state on April 7, the first election under it was held on May 17, and the officers then elected assumed office on the first day of June. A home rule charter with a merged county and city government was thus secured. Before giving the governmental organization therein provided for, it is necessary to follow the home rule amendment and the charter adopted thereunder through their trial before the courts.

No sooner had the governor issued his proclamation that the home rule amendment had been ratified by the people, and merging of city and county officers had begun in obedience to the amendment, than appeal was made to the Supreme Court to pass upon the constitutionality of the amendment itself.

At the time of the proclamation, C. S. Elder was treasurer of Arapahoe County, and Paul J. Sours was treasurer of the city. By the merger provisions of the amendment, above quoted, Elder became ex officio city treasurer. He accordingly served upon Sours a written demand that he vacate his office and deliver up all the city property and papers[1] in his charge. Sours formally refused to comply with this demand, on the grounds that the constitutional amendment was itself unconstitutional. Thereupon Elder filed in the Supreme Court a petition praying for a mandamus compelling Sours to turn over his office and property. The Court accepted original jurisdiction of the case, because of its great public importance, and the first of the legal battles over home rule was on.[1] On each side of the case was arrayed the best of the city's legal talent. Three of the counsel in favor of the amendment[2] were members of the first charter convention, while three of the counsel opposed to the constitutionality of the amendment[3] were in the second charter convention—a most significant fact. Against the validity of the amendment was urged every conceivable objection, the more salient of which were: (*a*) that, as there was a discrepancy in the wording of the amendment upon the journals of the two houses, the same bill was not voted for by both houses; (*b*) that it ceded all the public property of the county of Arapahoe and of the included municipalities to the city and county of Denver, in violation of the fourteenth amendment to the national constitution; and (*c*) that it provided for an un-republican form of government.[4] However, the validity of the amendment was upheld by two of the three Justices, Justices Gabbert and Steele, the latter of whom, a clear, clean, cogent thinker, rendered the decision. Chief Justice Campbell dissented. This decision was rendered on February 27, 1903, and, on March 2, it was upheld by the national courts.[1]

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[1] The statutes specifically provided that such property should all be turned over when the amendment become effective. Laws, 1901, p. 167.

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[1] People v. Sours, 31 Colo., 369.

[2] J. Warner Mills, John A. Rush, and Guy L. Stevick, Other counsel for the petitioner were: Harry A. Lindsley, Geo. F. Dunklee, T. M. Patterson, and Charles S. Thomas.

[3] Harper M. Orahood, Thomas E. Watters, and Clay B. Whitford. Other counsel for the respondent were: Platt Rogers, Charles J. Hughes, Jr., C. P. Butler, Fred W. Parks, R. D. Rees, and H. P. O'Reilley.

[4] Other objections were: (*a*) that it depended upon future contingencies, (*b*) that it added a new article to the constitution, that (*c*) it contained two or more distinct amendments to the constitution, which should have been submitted separately, (*d*) that it amended more than six articles to the constitution, and (*e*) that it was submitted under a misleading title.

No sooner had the Supreme Court decided in favor of the validity of the amendment than it was called upon to decide whether or not the amendment took from the governor power to appoint and remove the members of the two state appointed city boards. As quoted more fully above, section three of the amendment, provided that, upon the issuance of the governor's proclamation, the "then . . . boards of the city of Denver shall become, respectively, said officers of the city and county of Denver," and that they should hold office until their successors were "duly elected and qualified as herein provided for." The members of the fire and police board then in office had been appointed in 1901. At the expiration of their tenure, in 1903, the governor sought to remove them and appoint their successors. The incumbents refused to turn over their office and action was brought in the Supreme Court to oust them. The Court, in People vs. Adams,[2] held that, upon the issuance of the governor's proclamation, these state appointed officials "became members of the fire and police board of the new corporation" and were no longer subject to appointment and removal by the governor, one object of the amendment being "to withdraw from the governor the power which he theretofore possessed to appoint and remove the members" of those boards. Divorce from the two state-appointed boards, a leading motive in the home rule movement, was thus assured.

The amendment gave to the new corporation, by enumeration, plenary power over its public property, utilities, works, and ways, conferred upon it all the rights, benefits, and liabilities of the city of Denver and the other included municipalities, gave to the electorate thereof full and exclusive power to adopt its own charters and charter amendments, and specifically gave to the council tax-levying power. But in no place did it, in so many words, confer upon the city and county, by enumeration or by a blanket clause, the powers it could exercise in its capacity as a municipality, after the adoption of a home rule charter. It was clearly provided that, in the interim between the adoption of the constitutional amendment and the adoption of the new charter, the charter and ordinances of the city then in effect were to be the charter and ordinances of the city of Denver, a provision that the state Supreme Court specifically upheld.[1] The adopted charter gave to the council "power to enact and provide for the enforcement of all ordinances necessary to protect life, health and property, to declare, prevent and summarily abate and remove nuisances; to preserve and enforce the good government, general welfare, order and security of the city and county and the inhabitants thereof; to enforce ordinances and regulations by ordaining fines not exceeding three hundred dollars or imprisonmet not exceeding ninety (90) days, or both fine and imprisonment for each and every offense." Such was the interpretation of the charter convention as to the powers that could be conferred on the city. But the amendment contained no such language. The nature and the extent of the powers of the new corporation, and the extent to which it was to be freed from legislative control, had to await the interpretations of the Supreme Court.

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[1] Watts vs. Elder et al., U. S. Circuit Court for the District of Colorado.

[2] 31 Colo., 476.

In the two cases just discussed, the intent of the amendment was made the basis for the interpretation of the city's powers. "The amendment," said Justice Steele, in the Sours case, "is to be considered as a whole, in view of its expressed purpose of securing to the people of Denver absolute freedom from legislative interference in matters of local concern." In this same decision, Justice Gabbert said, in concurring, "The whole scope and purpose of the amendment was to provide home rule for certain cities with respect to certain governmental matters local in their nature." Chief Justice Campbell, in dissenting, took a like view of the city's powers. "For the city of Denver, under article twenty," he said, "the scheme of local government authorized is absolutely unfettered by the constitution and wholly beyond the power of the general assembly to supervise." This conception he reiterated, when writing the majority opinion in People v. Adams; in speaking of the objects of the amendment he said: "Certainly one object was to take from the general assembly all control of the local affairs of the inhabitants of the territory included within the new body politic. . . . In short, all must conclude that the purpose was to give to the people of the new corporation as large a measure of home rule in municipal affairs as could be granted under a republican form of government."

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[1] Hallett v. Denver, 46 Colo., 487.

The question of the extent of the city's power was not specifically before the courts in these cases and it remained for Justice Steele, two years later, to frame definitely the doctrine as to the city's powers, in a case that involved the power of the city to build an auditorium. In upholding such a power in the city, he said:[1] "We agree with counsel that no power to build an auditorium is expressly granted by the twentieth amendment; that such power is not incident to the powers expressly conferred, nor can it be necessarily or fairly implied therefrom; and that an auditorium is not indispensable to the objects and purposes of the municipality as declared in the twentieth article. But we do not agree with him that the stinted grant of power contained in section one and other parts of the article is the only power possessed by Denver. It seems very clear that the statement contained in the first section was not intended to be an enumeration of powers conferred, but simply the expression of a few of the more prominent powers which municipal corporations are frequently granted. The purpose of the twentieth article was to grant home rule to Denver and the other municipalities of the state, and it was intended to enlarge the powers beyond those usually granted by the legislature. . . . It was intended to confer not only the powers specially mentioned, but to bestow upon the people of Denver *every power possessed by the legislature in the making of a charter for Denver*." He then laid down the rule that Denver has any and every power that the legislature could confer upon a municipality. "The test," he continued, "is whether the power, if exercised, will promote the general objects and purposes of the municipality, . . . and unless it clearly appears that some constitutional provision has been infringed, the law must be upheld." There can be no question, therefore, that Denver widely extended her powers by the twentieth article and is now vested with every legislature power, local or municipal in its character, that is at all consistent with reason, and with the state and national constitutions. Courts in other home rule states have upheld similar interpretations of home rule powers.[1] Denver no longer has to read weary pages of statutes to find out what she *may* do, she has only to read the state and national constitutions to find out what she must *not* do. It is no longer necessary to barter for specific powers in the legislative halls and committee rooms of the state capitol.

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[1] Denver v. Hallett, 34 Colo., 393. Sept. Term, 1905. The court now contained seven members, three of whom dissented as to the power of the city to build the edifice in question. These were: Justices Campbell and Maxwell and Chief Justice Gabbert.

In passing upon the validity of specific powers assumed by the city, the Court has upheld powers formerly granted to the city and has also applied the general principles of interpretation as to what powers municipalites may exercise. It has upheld the provisions of the charter as to special assessments and public improvements.[1] The board of public works and its charter powers have frequently been sustained[2] although the provisions of the charter must be complied with.[3] An ordinance of the council creating a grading district, though there was no express provision for or against such action, was sustained, the court holding that "the trend of decisions of recent years involving questions affecting the validity of municipal improvements is to be less technical than formerly."

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[1] For instance the California Supreme Court ruled that home rule charters "deprive the legislature of the pewer by laws general in form to interfere in the government and management of the municipality."

However, there has been no definite tendency for the Supreme Court to get away from the old tradition that municipal powers should be narrowly interpreted. To be sure, the charter provisions prohibiting saloons within certain districts were pronounced valid,[4] and an ordinance prohibiting the keeping open of barber shops on Sunday was upheld,[5] but an ordinance prohibiting the keeping open on Sunday of meat markets and grocery stores[6] was pronounced invalid[7] as was also an ordinance prohibiting "a brick yard where bricks are burned," to be operated "within 1,200 feet of any residence, or public schoolhouse or park . . . without permission," on the grounds that they were *unreasonable* and took property *without due process of law*. An ordinance forbidding any "gift enterprise," and defining a gift enterprise to include the giving of trading stamps, was overthrown.[8] The test of reasonableness was applied[9] to the right of the city to raise or lower the "grade of a street from the natural surface to the grade established in the first instance." Just recently the Court has applied[1] the outworn canon[2] that "an ordinance which the municipality assumes to pass by virtue of its incidental powers, or under a general grant of authority, will be declared invalid, unless it be reasonable, fair and impartial and not arbitrary or oppressive." While the city's powers have been, numerically, greatly extended, the Court, while announcing the principle that home rule meant giving to the city every power "consistent with a Republican form of government," have nevertheless adhered to the outworn canon, tolerated only in American courts, that the city's powers must be kept down by interpretation to the least possible number. These decisions, it can be hopefully said, were all issued under the doctrine adopted in the Johnson case, later to be discussed, which put the narrowest possible interpretation upon the home rule amendment. Since that decision has been overruled, there is hope that the Supreme Court may also overrule much of this lamentable doctrine of limitation.

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[1] Charter Sections 187 and 188 were upheld in Denver v. Dumars, 33 Colo., 80 and 94; sections 160 and 161 in Denver v. Londoner, 33 Colo., 104. An assessment of a certain sum per square foot for all within an improvement district was upheld in Spalding v. Denver, 33 Colo., 172. See also Jackson v. Denver, 41 Colo., 362.

[2] Denver v. Iliff, 38 Colo., 357, Hallet v. U. S. Security and Bond Co., 40 Colo., 281.

[3] Denver v. Hindry, 40 Colo., 42. Denver v. Londoner, 33 Colo., 104. Denver v. Dunning, 33 Colo., 487.

[4] Section 75: Slater v. Fire and Police Board, 43 Colo., 225.

[5] 36 Colo., 486.

[6] Or exposing for sale any meats or provisions.

[7] 46 Colo., 385; Sept., 1909.

[8] Denver v. Trueauff, 39 Colo., 20.

[9] Leiper v. Denver, 36 Colo., 110.

In the rule that the city possesses every power that the legislature of the state could confer upon a municipality, lurks no danger to the state. It does not mean that the city can adopt ordinances or measures that infringe the letter or spirit of the state constitution or are repugnant to the policy of the state as declared in its legislation. A doctrine inhibiting such ordinances or measures was enunciated by the Court long before the adoption of the amendment[3] and was again very definitely enunciated in the Sours case. "Even by constitutional amendment," said Justice Steele, "the people cannot set aside any portion of the state in such manner that that portion of the state shall be freed from the constitution or delegate the making of constitutional amendments concerning it to a charter convention." Said the Court a year later, in interpreting this phase of the home rule amendment:[1] "The general scheme of government therein contemplated is restricted to that of the municipality proper, and does not intrench upon county or state government. It does not purport to nullify the constitution or general laws of the state in so far as they pertain to county or state government." This interpretation was reiterated later in these words:[2] "The authority of the charter convention to legislate under article twenty of the constitution is limited to matters purely local and municipal in their character. . . . Article twenty does not affect state or county, but only local or municipal governments."[3] The right and power of the state to legislate upon and administer all affairs of state import is, therefore, not infringed upon in the least. Thus the state's powers are plenary in such state-wide fields as the public health, education, taxation, suffrage, elections, eminent domain, corporations, the judiciary, public indebtedness, irrigation, preservation of order, regulation of saloons and vices, protection of children, etc., and statutes pertaining to these and kindred subjects apply in Denver as elsewhere.

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[1] Curran Bill Posting Company v. Denver, 47 Colo., 221. Jan. Term, 1910.

[2] Phillips v. Denver, 19 Colo., 179.

[3] Durango v. Riensberg, 16 Colo., 327.

Numerous indeed have been the decisions that have had to do with the line of demarcation between the powers of the state and the powers, local and municipal in their nature, that the city can exercise without any intervention by the state. Here again the tendency has been to limit the city's powers by broadly construing state statutes. A few examples will suffice. As the general assembly has exclusive jurisdiction over election contests, a charter provision granting to the county court jurisdiction in contests over franchise elections is void.[4] The state election laws apply to Denver.[5]

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[1] Parsons v. The People, 32 Colo., 221.

[2] People v. Johnson, 34 Colo., 143.

[3] See also Denver v. Adams County, 33 Colo., 1, and Denver v. Bottom, 44 Colo., 309. April, 1908.

[4] Williams v. The People, 38 Colo., 497, Sec. 182 of the charter.

[5] For instance the registration law. Sess. Laws, 1905, p. 219.

The municipality can not infringe upon the administration of state laws by county officers, and state laws as to counties apply to Denver county.[1] The city cannot license the manufacture and sale of oleomargarine when a state statute forbids all sale and manufacture of oleomargarine within the state.[2] "A municipal ordinance not in harmony with the general law is void."

The courts are thus tending to limit the city's powers by broadly construing the powers, and freely interpreting the statutes of the state. This tendency, together with the tendency above noted to interpret strictly the powers the city assumes, and the very decided tendency of the state government to multiply and extend the field of its activities, make Denver's powers, though larger than those of any city, other than home rule cities, tend to diminish in significance. This policy, it is to be hoped, the present Supreme Court will abandon. Large municipal powers, as shown above, can do no harm to the state, while they add greatly to the city's growth, autonomy, and activities.

In one respect, the manifest intent and the plain provisions of the home rule amendment were, for half a dozen years, completely thwarted by the Supreme Court. That was as to the merging of city and county officers. The clear terms of the amendment as to this merger have been noted. The amendment itself merged them,[3] and gave to the charter convention full power over all the offices of both city and county. The state was amply protected by the provision that the charter must specifically specify the particular officers that should perform the duties prescribed for each and every county official, a provision that both charter conventions were careful to fulfill. For nearly three years, no one questioned the constitutionality of the merger. Not only was its constitutionality not questioned, but it was upheld by the Colorado Court of Appeals in a decision[1] that clearly stated the line of demarcation between the powers of county and city officials: "The duties of city officers are prescribed by the charter, and the duties of county officers by the general laws of the state. That the city government and the county government are in the hands of the same persons, is immaterial. The distinction between the functions pertaining to a city government and those pertaining to a county government is not, and does not purport to be, affected by the amendment." The Supreme Courts in other states where such mergers had been adopted, had upheld them and pointed out the way by which the autonomy of both city and state could be upheld. Thus the California Court sustained the merging[2] of officers in the city and county of San Francisco,[3] and vested the co-ordinate city and county of San Francisco with complete autonomy as a city, while holding it subject to state laws as a county.[4]

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[1] Denver v. Bottom, 44 Colo., 309. See also 33 Colo., 1, etc.

[2] Glendenning v. City and County of Denver. Decided April, 1911. Case Number, 6,891.

[3] This the Court has upheld as valid and refused to allow salaries to ousted county officers from December 1, 1902, to April 14, 1903. Orahood v. Denver, 41 Colo., 173.

At the first municipal election held under the home rule charter, on May 17, 1904, there was elected one set of merged county and city officers.[5] The charter had provided for the election of two county judges. Section three of the home rule amendment specifically declared that the charter convention should provide for all the city and county officers except the county judge, the district attorney, and the district judge. When the Republican convention met to nominate state officers for the fall campaign of 1904, it appointed a committee of lawyers to report upon what state and county officers could, by the charter, be elected at the municipal election. The committee reported that the charter convention could provide for all save the three officers above mentioned. Thereupon the convention nominated a county judge. The Democrats conferred upon their executive committee power to nominate a county judge, if necessary. Just before the elections, a complete set of county officers was nominated by both parties.

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[1] 19 Colo. App., p. 17. April, 1903.

[2] The amendment was passed in 1856.

[3] Martin v. Election Commissioners, 126 Cal., 404, 58 P. R. 932.

[4] Popper v. Broderick, 123 Cal., 456. 56 P. R. 53.

[5] County judge, county assessor, county clerk and ex-officio recorder, treasurer, constable, sheriff, county commissioners, and justices of the peace.

A case was at once taken to the Supreme Court to test the constitutionality of merging city and county officers. The majority of the Court,[1] in what is known as the Johnson case, ruled against the constitutionality of the merger. The opinion was professedly based upon the principles laid down by Justice Steele in the now famous Sours case, especially his statement that "even by constitutional amendment the people can not set apart any portion of the state in such manner that that portion of the state shall be freed from the constitution or delegate the making of constitutional amendments concerning it to a charter convention, or give to such charter convention the power to prescribe the jurisdiction and duties of public officers with respect to state government as distinguished from municipal or city government." To determine the tenure of these officers of the new corporation that were to act also as county officers, or in any other way to legislate pertaining to county offices, was, concluded the Court, state legislation, and to confer upon any one city or county of the state power to enact state legislation would surely be subversive both of the state's interests and of the state constitution. Justice Steele, in dissenting, inveighed against such conclusions, and held that the Sours case particularly denied to the city's charter convention power "to propose measures changing governmental acts and duties," because it was proper that such should "remain under the control of the legislature and of the general laws." He then went on to show that there were no reasons given in the Sours case or in any other case as to why "these governmental duties could not be performed by a single set of officers for the city and county and that such officers could not be elected at a single election." "The Sours case was regarded by everybody," he went on to say, "as settling the proposition that Article XX . . . was feasible and legal throughout, when given the construction that in prescribing the jurisdiction, term of office, duties and qualifications of all such officers, it did not mean that the charter convention could so prescribe in cases where it would operate to hinder the performances of the acts and duties required of county officers to be done by the constitution or by the general law as far as applicable to the changed conditions of the municipality." But Justice Steele was in the minority and hence the city and county officers were separated at heavy temporary and permanent expense, and one main purpose of home rule was thwarted. The bench and bar of the state generally looked with disfavor upon this decision as being a political one. The judges that rendered it were defeated at the ensuing election.

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[1] People v. Johnson, 34 Colo., 143. April, 1905. The court now numbered seven, five of whom join in the majority opinion. Justices Steele and Gunter dissented.

A dual set of officers for the city and county have been elected, at the municipal and state elections respectively, ever since this decision. Early in 1911, however, a new personnel now being in the majority in the Supreme Court, the commerical bodies of the city, in the interests of economy and efficiency, and in order to put a stop to the corruption and administrative incompetency that has characterized the activities of the county, as distinct from the city officials, instituted a case by which it was hoped, not in vain, that the Supreme Court would reverse itself as to the unconstitutionality of consolidation. This the Court did in a decision handed down on the first day of May. Five judges out of the seven[1] stood for reconsolidation. Justice Steele's dissenting opinion, just quoted, now becomes the fundamental law as to the separate functions of merged county and city officers. In this new opinion[2] Justice Bailey says: "For the present it is entirely sufficient to know and declare that the plain duty now confronts us of giving force to a clear and positive mandate, according to its undoubted meaning, in conformity with the intent and purpose of the whole people of the state, as hereby expressed, to the effect that there shall be in the city and county of Denver a consolidated government in fact, and that one set of officers shall discharge double duties therein at one and the same time." The decision holds that "To confer upon the people of a particular community authority to designate the agencies by which governmental duties therein shall be discharged" is fully within the power of the people of the state, and is obnoxious neither to the state nor national constitution. It very clearly lays down the doctrine that the people have a right to amend their constitution as they see fit and that it is the duty of the court to give effect to the expressed will of the people as set forth in their constitution. It clearly asserts that it is perfectly constitutional to provide that one set of officers shall perform city and county functions, and that such a provision does not violate any guaranty of a republican form of government. From this decision a writ of error was sued out of the Supreme Court of the United States. A motion has been filed by the City and County of Denver to dismiss the writ of error and affirm the judgment of the Colorado Supreme Court upon the grounds that no federal question is involved and that the writ of error was obtained only to delay reconsolidation. This new decision is one of the most important cases ever decided in all Denver's history. Its import, as also the far reaching significance of the Johnson anti-consolidation decision, will be all the more clearly revealed in the following pages, descriptive of Denver's home rule plan of city government.

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[1] Justices Bailey, Musser, Hill, White and Garrigues, Justice Gabbert and Chief Justice Campbell dissented. Justice Bailey wrote the decision. Municipal Facts, May 6, 1911.

[2] The People v. Elizabeth Cassidy, et al., No. 7228. As quoted in the *News* of May 2, 1911.

## THE PRESENT ORGANIZATION—THE MAYOR FORM.

Because of this recent decision of the Supreme Court reconsolidating the city and county governments, a discussion of the present organization must include both the structural plan provided for by the adopted home rule charter and the changes and revisions made in this plan by custom and by the Johnson decision.

The council is bicameral. The upper branch, the Board of Supervisors, is composed of seven members elected for four year terms. The lower branch, the Board of Aldermen, is composed of as many members as there are wards in the city, now sixteen.[1] The members of this Board are elected for two year terms. The aldermen are nominated and elected by wards; the supervisors are nominated in Supervisors' districts, seven in number, but are elected at large. In this way the party that has a majority in the city at large can always control the upper branch of the city's legislature. Each board elects its own president, who serves for one year.[2] To be eligible for membership, a councilman must be at least twenty-five years of age, a citizen of the United States, a tax-payer, and for two years a resident in the city and county. Each board holds, on separate weeks, two meetings per month, and is "the sole judge of the qualifications, elections, and returns of its own members."[3] Vacancies in both Boards are filled by the mayor with the concurrence of the Board in which the vacancy occurs. Ordinances and resolutions must "be confined to one subject," are subject to the suspensive veto of the mayor, a two-thirds vote of each board being necessary to pass a measure over the executive veto,[1] and must be published before they can take effect. The charter attempts to make a clear separation of the legislative and the executive by the provision that "Whenever an executive or administrative function shall be required to be performed by ordinance, the same shall be performed by the proper executive department, and not by the council." Of course, all such provisions are largely futile, as any executive must be a legislator and any legislator an executive. The council is not supreme in the legislative field—the charter itself vests in the council only a negative influence over appropriations, the tax levy, and the budget. In practice, the mayor's enormous executive power and influence make him the leading factor in legislation also. The charter authorizes the council to investigate any executive department, with compulsory powers over witnesses, books, and documents, but this power was not given nor is it used as a means of giving the council administrative influence. The council, in practice, is, at its best, a board of control, and seldom is it that. It has usually been only a formal registering machine where legality can be given to measures actually initiated elsewhere.

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[1] The charter provides that the wards shall be not less than 16 nor more than 21 in number.

[2] The presidents of the Board of Supervisors and the Board of Aldermen serve, in the order named, as acting-mayor, when the occasion requires it.

[3] The first charter convention omitted the word "sole" thus giving an appeal to the courts.

The charter provided that the Board of Supervisors should act as county commissioners, but the Court's decision against the merger defeated this provision and necessitated the election of county commissioners at the fall election. The result has been the creation of a second independent legislative and administrative body not so responsive to the public will and not so responsible as the mayor. The county jail, the county hospital, county poor relief, and all other county affairs have, as a rule, been inefficiently, and corruptly administered. The county commissioners have been infinitely more reckless and inefficient than the city's council. Their annual budget, raised by a 5.5 mill levy,[1] is around $715,000.

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[1] The charter of 1893 required a three-fourths vote of each house. The rejected charter required nine votes out of the eleven.

The council and the county commissioners are no longer, however, the sole arbiters of Denver's legislation. The provisions of the home rule amendment by which the initiative and referendum was granted for all charter amendments and measures have already been noted, as have also the defeated attempt of the first charter convention to vest in the electorate rights of direct legislation. The adopted charter took away all right to initiate ordinances, required a twenty-five per cent. petition to secure a referendum vote on ordinances, and omitted the essential provision that ordinances approved by the electorate could be amended by the electorate only, thus leaving it in the council's power to annul an ordinance adopted by popular vote. In short, the adopted charter made direct legislation practically impossible and useless. In the municipal election of 1910, however, the demand for direct legislation was revived with the result that a charter amendment was adopted granting direct legislation in terms very similar to those contained in the rejected charter. This adopted amendment gives opportunity for a referendum petition, by providing that no ordinance "shall take effect before thirty days after its final passage and publication, except ordinances calling a special election or necessary to the immediate preservation of the public health or public safety." It failed to provide, however, proper safeguards as to what kinds of ordinances could be declared "necessary to the public health and safety," and by what vote they could be so declared. If within these thirty days, "a petition signed by qualified electors equal in number to at least fifteen per cent. of the last preceding vote for mayor" is filed, requesting a referendum vote on the ordinance, the council must at once, either repeal the ordinance in its entirety, or submit it to a special election. If the petition is signed by less than fifteen but more than five per cent. of the electorate, the council must submit the ordinance to the next general municipal election. The council does not have, as it might well have, the alternative of submitting such a request at a special election, if the public welfare should so demand. A petition of over five and under fifteen per cent. can thus keep an important ordinance from going into effect until the next general municipal election. This, however, will seldom occur. The referendum is sure to have salutary effects.

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[1] In 1909.

The amendment also provides that an ordinance may be initiated and put before the electorate at a general election by a five per cent. petition, or at a special election by a fifteen per cent. petition.[1] The initiative and referendum assures to Denver's citizenry the right to think and act for itself.

The charter provides for the election of the two following groups of administrative officers: (1) mayor, clerk, auditor, treasurer, and the election commission; (2) sheriff, assessor, clerk, recorder, coroner, county superintendent of schools, and two judges of the county court. The anti-merger decision, however, necessitated that all in the second group be elected at the state election, leaving only those in the first group to be chosen at the municipal election. To the second group, also, by this decision, only the state laws applied and not the charter. If the reconsolidation decision is upheld, all these officers will be elected, as was intended by the home rule amendment and the charter adopted thereunder, at the same municipal election and be subject all alike to the charter's provisions, as well as to the provisions of state laws.

The charter provides that the terms of all the elective officers shall be four years. The constitution, framed at a time when we were still primarily a rural people, whose few governmental problems could be handled by short term officials, had provided that all municipal offices should be limited to two year terms. This limitation was happily repealed, so far as home rule cities were concerned, by the provision of the home rule amendment that the "term, duties and qualifications" of such officials should be "such as in the charter may be provided." There was no provision, however, by which the ballot was shortened by having a portion of these officials elected biennially. By the charter, they are all elected every four years, three supervisors and the aldermen only being elected at the intermediate municipal election.' The official term begins on June 1.

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[1] The defeated charter followed the constitution and required but a ten per cent. petition for a special election.

Any elective officer may be impeached by the Board of Aldermen. The impeachment trial is by the Board of Supervisors.[1] The grounds for impeachment, the second charter convention specifically limited to "high crimes, malfeasance, or corrupt practices in office." The first charter convention had added to these causes, "wilful violation of the terms of an ante-election statement." Impeachment by this procedure and for these causes was the only control the people had over their own governmental agents until, in the spring election of 1910, a charter amendment was initiated and carried by a majority of over 7,000, adopting the recall for all elective municipal officials. The recall petititon must be signed by qualified voters equal in number to twenty-five per cent.[2] of the vote cast for all candidates for the office it is sought to vacate, and must "contain a statement of the grounds" for which the removal is sought. No official can be "removed from office within six months after his election thereto." This latter clause has been the subject of controversy in the one recall petition that has thus far been signed, the city attorney advancing the dubious doctrine that an official's "election" dates from the time he took his seat, not from the day on which he was elected. Within from sixty to ninety days after such a petition is filed and duly verified, it is the mandatory duty of the council to call a special recall election at which the electorate sustains or rejects the accused official. Thus the city's administrative department, as well as its legislation, are subject to direct control by the electorate. The city's officials can no longer secure election on blatant promises, only to carry out opposite policies when in office, without endangering their position through the recall.

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[1] Save when a member of that Board is impeached, when the county judge tries the case.

[2] Five per cent. less than that required by the defeated charter.

The most important of all these elective officials, the pivotal official of the whole city government, is the mayor. As has been shown in the preceding pages, the evolution of the city's structural plan, in so far as changes were made in the interests of administrative efficiency, has been toward the mayor type. The first charter convention accepted the mayor plan in toto. The second convention did not disturb mayoralty centralization, but it did thwart the best efficiency in the mayor form, by restoring, for political purposes, the bicameral council. Despite this defect, however, power and responsibility have been so completely centralized in the mayor's hands that there can be no escape from the conclusion that as is the mayor so is the city's government. That centralization brings power to do things, has been clearly demonstrated by the masterful way in which the present mayor has accomplished his every purpose.

Save the few elective officials above named, the mayor appoints every important municipal official and these appointees fill, in turn, all the subordinate positions in their departments. The board of public works, the fire and police board, the park commission, the art commission, two of the eight members of the library commission, the other department heads, including the city attorney, the health commissioner, the commissioner of supplies, the superintendent of the bureau of street sprinkling, the building and other inspectors, are but a few of the officials appointed by the mayor. Not only does the mayor appoint these officials, but he has over them full power of removal.[1] Subject to the approval of the Board of Supervisors, the mayor also fills out the unexpired terms of elective officials. He is directed to appoint, once each year, an expert accountant to examine the books, records, and reports of such departments as he may designate. This accountant has "unlimited privileges of investigation," and has full compulsory powers over records and witnesses. For his expenses, the council must appropriate any sum under $3,000,[2] that the mayor asks for.[3] The mayor's approval is also necessary for the selection, by the city treasurer, of the bank in which the city's money is to be deposited. The mayor audits and allows the monthly salary of the auditor and his employees. He can instruct the city attorney, in writing,[4] to bring suit in behalf of the city. Department heads must "from time to time meet with the mayor and confer on matters of general importance." He has thoroughgoing control over every administrative branch of the city's government.

The mayor must sign all bonds, contracts, or other instruments of writing requiring the assent of the city, and he is specifically made responsible for seeing "that all contracts and agreements with the city and county are fully performed," to which end he is endowed with compulsory powers. He it is that frames the provisional budget, based upon the estimates furnished by all the officials, department heads, and commissions of the city. This budget must show in detail the amounts appropriated for each of the various departments. It is submitted to the council at a joint session held between the first and third Mondays of December in each year. Only by a two-thirds vote of each branch can the council change any item in the budget. After the council has acted, the mayor can veto any or all budget items.[1] In the mayor is thus centered full control, not only over the city's contracts, but over all the money it raises, and the purposes for which the money is distributed.

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[1] As a rule there is no appeal, though a few of the removed officials may demand a public hearing, but, after the hearing, the mayor's decision is final. The mayor can not remove for political purposes.

[2] It may appropriate more than this sum at its option.

[3] The first charter contained the same provision but fixed no maximum limit to the amount that the mayor could require for this purpose. It also gave to the accountant power to require a uniform and comprehensive system of accounting. The adopted charter transferred this power to the council.

[4] As may the council also.

The mayor's power over legislation also is significant. He is enjoined to give the council information concerning the condition of the city and to recommend for its consideration such measures as he may deem expedient. Over every ordinance and resolution passed by the council and over every item in the appropriation bill, he has the power of veto. To override his veto a vote of two-thirds of the members elected to each body is necessary. As this means five of the seven supervisors and eleven of the sixteen aldermen, his veto, save on very rare occasions, defeats the measure. Of greater import is the fact that he administers and executes[2] all the city's ordinances, and can remit fines and penalties imposed for their violation.[3] These powers, coupled with his prestige and influence, make the mayor the city's predominant legislator, and the interpreter of the city's statutes.

Numerous, indeed, are the advantages of centralizing so thoroughly all the city's business in the office of the mayor. It secures unity in administration. The mayor's policy becomes the city's policy. It unerringly fixes responsibility and this spurs the mayor to keener activity. Thus one who is very close to mayor Speer, a party mayor, has quoted him as saying that, while he allowed ward and other party committees to name the man to fill a given office, yet he always insisted that an efficient man be named. The plan assures an efficiency in city administration that equals, but only equals, the mayor's own standards of efficiency. In short, the plan makes the mayor's standard of government the city's standard of government. If the mayor is interested primarily in administering the city's affairs in a business manner, and is a good administrator, the plan is a good one. If the mayor is chosen because he will carry through the wishes of any given group, such as party or the public utility corporations, and thinks only secondarily of the efficiency of the city's government, the plan is a failure. Under such a plan the people must needs look well to their mayor.

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[1] Subject, of course, to re-passage by a two-thirds vote in each branch of the council. But this vote the mayor could usually prevent.

[2] In addition to his control of the police he has the power that has been granted to Denver's mayors since the city's earliest days to call "upon every male inhabitant over the age of eighteen years, to aid in enforcing the laws and ordinances, . . . and in preserving the public peace and order." The penalty for refusal is a $300 fine.

[3] Reporting to the council at its next meeting his reasons therefor.

While the mayor has full control over department heads, each department head, whether a board or single administrator, has, so long as he acts in harmony with the mayor, complete independence within his department. Each department appoints all its "employees," those whose salaries are fixed by ordinance; and all its "assistants," those whose "reasonable salaries," and tenure are determined by the department itself. Each department may have such "assistants" as it shall choose; the number of its "employees" are fixed by the council. Department heads may make "rules and regulations, not inconsistent with the charter and ordinances of the city and county, for the government of their departments, and enforce the same." Their tenure is the same as that of the elective officials, four years. Space forbids going into the detail of the functions and organizations of each of these departments, but certain features of the more important departments must not go unnoticed.

In lieu of the unsuccessful attempt of the charter of 1893 to create a department of finance, two elective independent departments, the department of audit[1] and the department of the treasury, were created. The charter provision that the financial affairs of both the city and county should be administered together, was rendered void by the anti-merger decision. The appointive commissioner of supplies was given added powers, and greater publicity checks were placed upon his activities. The rejected charter provided for a department of inspection, with power in the head of the department to appoint all the city's inspectors, thus centralizing its supervisory work. The adopted charter unfortunately decentralizes this department: The mayor appoints the building inspector, the inspectors of electric wiring and plumbing, the boiler and the elevator inspector, the market master, the city electrician, etc. The inspectors of electric wiring and plumbing must report to the building inspector. But in all other respects there is administrative diffusion save the slight central control that may be exercised by a very busy mayor. The charter provides for one elected attorney for both city and county, but the anti-merger decision caused decentralization in the administration of the city and county's legal affairs. The county attorney is now elected; the city attorney is appointed by the mayor.[1]

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[1] For administrative purposes the auditor's department is divided into the three bureaus of Audit and Account, of License Inspection, and of The Public Improvement Tax.

The Fire and Police Board is composed of a commissioner of excise, a commissioner of police, and a commissioner of fire, one of whom must be of a different political faith from the other two. The commissioner of excise is president of the Board. This scheme gives the advantage of a single-headed executive for each of the departments, with the advantages of a board to frame the numerous rules and regulations needed in fire, police and excise departments.[2] The Board has "full, complete, and exclusive authority" over all appropriations and funds[1] appropriated or set aside for its use. It chooses, subject to the approval of the mayor, all "sites for fire or police stations, patrol boxes, fire hydrants, alarm boxes, etc.," and, when authorized by ordinance, purchases the sites and erects the police stations and fire houses. It has "exclusive power to grant, refuse, revoke, or suspend" any and all licenses. The previous statutes as to the place and time for sale of liquors were incorporated in the charter, and the saloon license was fixed at a "uniform fee" of $600 per year. These provisions the Supreme Court[2] has upheld. While all licenses are "subject to the ordinances which may be in force at the time,"[3] the Board is the sole executive of those ordinances, and may issue regulations of its own, though it cannot issue "unreasonable" regulations, such as restricting the number of moving pictures licenses to twenty-three.[4] The Board as a whole appoints the chief of police, all members of the police department, the fire chief and his subordinates, and "all officers and assistants necessary to perform the duties of the department of excise," save those engaged in the "inspection and collection of all licenses," who are appointed and supervised by the auditor. The employees in the police department, in 1910, totaled 215, 150 of whom were regular patrolmen, and in the fire department 218, including the chief and his five assistants. The police must suppress, says the charter, all prise fights and "similar exhibitions" and are enjoined to "enforce all general laws and ordinances suppressing gambling."

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[1] The city attorney must give his opinion upon "all bills for ordinances for franchises of any kind, for licenses and concerning taxation." The duties of the clerk are those usually assigned to such officials.

[2] The defeated charter provided for two separate departments, the department of fire and police, and the department of excise, each to be headed by a single executive. This would have centralized responsibility but would have done away with the advantages of a board for legislation.

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[1] In accordance with the charter's provisions, the council, on June 1, 1904, created a Police Department Relief Fund, composed of all the money derived from the sale of unclaimed property, dog licenses, fines for carrying concealed weapons, fines against members of the department, 50 per cent. of all automobile licenses, one per cent. annually of the salaries paid in the department and an annual appropriation by the council. It amounted in May, 1911, to $55,000. There is also a Pension Fund for the Fire Department, composed of an annual tax of one tenth of a mill, and one per cent. of fire department salaries. It amounted in May, 1911, to $78,100.

[2] Slater v. Fire and Police Board, 43 Colo., 225.

[3] Municipal Code, 1906, sec. 1185.

[4] Such was Judge Whitford's obiter dictum in a case before him on January 20, 1911.

The "Department of Public Utilities and Works"[1] is administered by a Board of Public Works composed of a commissioner of public works, a city engineer, and a commissioner of highways. The first is president and chief executive of the Board, the second is the head of the bureau of engineering and surveying, the third superintends the cleaning and repairing of all the city's public highways. The Board appoints and removes all its own assistants, subject to the single limitation that the salaries of such assistants shall not exceed $1,200 per year. It has the "exclusive management and control" of the construction, maintenance care, and repair of all public and local improvements, streets, alleys, boulevards, sewers, sidewalks, bridges, viaducts, tunnels, city buildings (other than those used for fire, police, or hospital purposes), improvements in Cherry Creek and in the Platte, erection of poles, stringing of wires, and the laying of tracks, pipes, and conduits in the city's streets. All sums raised or appropriated for these purposes, whether by appropriation by the council or raised from city or local bonds, are under the "full, complete, and exclusive authority" of the Board. The issuance and sale of these bonds are also under the Board's jurisdiction. The council must pass, without amendment, all ordinances recommended by the Board relating to or providing for public improvements. The contracts for all such improvements are "awarded by the mayor, upon the recommendation of the Board." Numerous pages of the charter are devoted to giving details as to the Board's powers and procedure. None of these have been overthrown by the Courts and many of them have been specifically upheld.[1] To the Board is also given the control and supervision of such public utilities as the city may come to own. A charter amendment was adopted in 1910, however, which created a special commission for the water works system.[2] The Board of Public Works is by far the most important department of the city's government. It has under its control 65 miles of boulevards, and plans 60 miles more. It built the auditorium at a total cost of $700,000 and administers it part time as a municipal theater. It constructed the Welcome Arch,[3] the Public Bath House and Gymnasium,[4] the Electric Illuminating Fountain in the City Park,[5] and it has put in the city's splendid system of artistic lighting. In 1910, for sewers, grading, paving, boulevards, sidewalks, bridges, viaducts, and subways, the Board expended $1,538,978.94. The total value of surface and underground street improvements under the care of the Board on December 31, 1910, amounted to $14,522,853.90. By far the larger share of its expenditures come from local improvement district bonds.

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[1] The defeated charter provided for two departments, the department of Public Works and the Department of Public Utilities, at the head of each of which there was a single commissioner. The commissioner of public works, the engineer, and the corporation counsel were, ex officio, an advisory Board of Public Works.

The Department of Parks is in charge of a commission of five, appointed by the mayor for five year terms, one being appointed each year. The commission supervises all parks, and, with the approval of the mayor, has "full, complete, and exclusive power and authority" over all sums raised or set aside for park purposes, whether raised by taxation, granted by appropriations, realized from the sale of park district bonds, from the sale of privileges in or near the parks, or from gifts. The charter enjoins upon the council a levy of at least one and one third mills for the city's parks. Of late, this levy has been exceeded. In 1910, there were under the commission's charge, 29 parks[1] with a total acreage of 1,083 acres, valued at $3,998,000. On these parks it expended during that year $277,732.89. The commission has charge of the city's playgrounds, expending, in 1910, for their maintenance, $8,218.05, and for their improvement, $10,259.87. In connection with the parks, the commission runs a city nursery with a capacity of over 60,000 trees and plants. Under the charge of this commission, is the recently created Civic Center. Here in ample grounds are to be located the city's new public buildings. The appraisers awarded $2,523,463.10 for the lands and property condemned for this Center and the city expects to spend $1,600,000 more on its improvement. Denver is already one of the most beautiful resident cities in the United States. Its recent energetic activity in extending civic improvements will make it take an ever higher rank. The temptation is to expend a relatively larger amount for those things that will please and attract tourists and residents than for playgrounds and vital social comforts and needs.

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[1] In general, in Denver v. Iliff, 38 Colo., 357, and in Hallet v. U. S. Security Co., 40 Colo., 281. The contractor is bound to take notice of the charter provisions: Denver v. Hindry, 40 Colo., 42. Subdivision three of section three is not unconstitutional—Denver v. Londoner, 33 Colo., 104. Subdivision two of section three, sections four, twenty-four, thirty, thirty-one and thirty-four have respectively been upheld or interpreted in Denver v. Londoner, 33 Colo., 104; Denver v. Kennedy, 33 Colo., 80; Denver v. Duncan, 33 Colo., 94; and Jackson v. Denver, 41 Colo., 362.

[2] See under Public Service Corporations.

[3] The money for which, $22,500, was raised by private subscription.

[4] At a total cost of $90,274.85.

[5] Board's expenditure was $19,877. The Isle of Safety, at the intersection of certain business streets cost $3,641.19.

The Department of Health is in charge of a single executive,[2] the health commissioner. The commissioner must be a licensed physician of five years' experience in the city and county. He has control of the city's hospitals and morgues and is the sanitary supervisor of all municipal institutions and city and school buildings. He has charge of the removal and distribution of garbage. In the interests of the city's health, he may enter any premises in the city.[1] He appoints all the city physicians and also two licensed physicians to act with him as the city's medical advisory commission. His reports are detailed and fairly valuable.[2]

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[1] The largest of these parks is the City Park of 320 acres, purchased from the state in 1879. In this Park is the Colorado Museum of Natural History. It is maintained by the city and managed by its own Board of Trustees. Of this Board, the mayor is ex-officio a member.

[2] So in the defeated charter.

The charter provides for an unsalaried Art Commission[3] to be composed of the mayor, and six members,[4] appointed by him, for six year terms. No work of art[5] can become the property of the city until its design and location is first approved by this commission. Of the work of this commission, its former Chairman, Henry Read, recently appointed President of the Board of Public Works, says, in a letter to the author: "As regards the official action of the commission, during the seven years of its existence, all charter requirements have been strictly fulfilled, but at the same time the field of its work has been extended beyond what was originally contemplated, for the following reasons.

"The commission from the beginning held the view that a merely critical attitude would do little to forward the aims which the commission had in view. It therefore suggested plans, prepared designs, and finally undertook to carry out in practice, such improvements as the various other departments were willing to sanction, thus placing itself in the position of an executive body deriving its power from other sources. Of course this involved considerable sacrifice on the part of individual members of the commission, as the commission is an unpaid branch of the government, and only a small sum[1] for expenses is allowed in the annual budget. Much of the success of its work has been due to the special technical knowledge of some of its members, also to the fact that its attention has been given to practical improvements of value to the whole community, rather than to work of a more purely artistic character. . . .

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[1] Without a warrant in the daytime, with a warrant from a Justice of the Peace at night.

[2] In 1910, the employees in the department numbered 66; 18,581 school children were examined, 15,903 nuisances abated, and 28,849 loads of garbage removed.

[3] This idea also was taken from the defeated charter.

[4] One must be a sculptor, one a professional architect, two professional artists, and two must be persons that are not "pursuing the profession of art or architecture."

[5] The charter defines a "work of art" to include "all paintings, stained-glass windows, mural decorations, statues, bas-reliefs, seals, medals, sculptures, monuments, fountains, arches, ornamental gateways, and other structures of a permanent character intended for ornament or commemoration."

"The commission, among other undertakings, has been responsible for the design and installation of the system of ornamental municipal lighting. It started the campaign for systematic street improvements . . . and prepared plans for the Civic Center . . . . You must not suppose that we alone have carried the burden upon our shoulders. Without the active assistance of Mayor Speer, whose power under the charter is the most important factor in civic improvements, it is impossible to guess how much or how little could have been done . . . . The commission has been fortunate in its personnel, in the combination of external factors, and in the friendly attitude of the community."

The city's libraries are in control of a Library Commission of eight members, appointed by the mayor for eight-year terms.[2] This commission has "exclusive" control over the city library, its branches and reading rooms, and all funds appertaining thereto. The charter enjoins the council to appropriate for the maintenance of the public library at least $30,000 annually. This sum, though no more, has been appropriated. A new public library building has been constructed at a cost of over $300,000. Branches of the library are provided for the different sections of the city.

The consolidated schools are under the administration of a single Board of Education. The office of county superintendent is continued, though its incumbent has practically nothing to do. The office is usually given to a woman out of deference to woman's suffrage. The Board of Education is elected at a special election. At these elections, politics and manipulations in the interests of bank deposits and contracts have been too numerous for the securing of an efficient board. The Board's annual receipts total over $1,250,000,[1] coming from taxes and from the city's proportion of the state public school fund. The city's school laws are passed by the state and are not subject to charter or home rule revisions.

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[1] $500 in 1910.

[2] The defeated charter provided for nine members with six year terms.

The charter provides for a Department of Charity and Correction in charge of a commission of three, appointed by the mayor for two-year terms, to have charge of all charitable work done by the city and county. The anti-merger decision, however, rendered this provision of no avail, as the separation of city and county officials rendered impossible the centralization of the charity work of city and county. Through the chairman of the county commissioners, the member of the county board specifically made responsible by state law for poor relief, the county has given out indiscriminately and usually wastefully and unwisely, relatively large sums for the care of the poor and for the county poor farm. The city's charity is dispensed by, and the various charitable organizations and institutions of the city are correlated under, "The Charity Organization Society of Denver." To this association the city makes annual appropriations of $12,000. The Society then raises more than twice this sum by subscription.[2] Each of the twenty-one societies[3] now associated under the Charity Organization is free to raise such other sums as it can. This scheme[1] makes possible some inspection of all the institutions of the city that are soliciting subscriptions, and gives some protection to the business men. Although the Society has not been able to prevent all the waste and needless duplication that it would like, it has been and is an efficient and much needed institution. This Society it is that deals with applicants for poor

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[1] $1,246,318.77 in 1907, $1,261,246.30 in 1908. Of the latter sum, $298,985.38 was from the state fund and $861,329.12 from local taxation. The salaries for male teachers in the graded schools averaged, in 1908, $114.78, for female teachers, $78.78.

[2] The sums appropriated by the city, raised by subscription, and expended in total by the Associated Charities are given in the following table. The difference between the "Total" of appropriations and sub-

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scriptions and the "Total Expenditures" is the amount raised by the various institutions themselves.

| Year. | From Subscribers. | City. | Total. | Total Expenditure of Associated Charities. |
|---|---|---|---|---|
| 1900 | $14,028.00 | $9,000.00 | $23,028.00 | $51,635.44 |
| 1901 | 17,298.25 | 9,000.00 | 26,298.25 | 57,054.45 |
| 1902 | 18,363.03 | 9.000.00 | 27,363.03 | 61,723.04 |
| 1903 | 13,568.92 | 9,833.32 | 23,402.24 | 72,072.62 |
| 1904 | 13,290.29 | 10,000.00 | 23,290.29 | 74,566.21 |
| 1905 | 18,276.90 | 10,000.00 | 28,276.90 | 76,379.84 |
| 1906 | 18,533.69 | 11,666.66 | 30,200.35 | 83,285.59 |
| 1907 | 18,802.09 | 11,666.66 | 30,468.75 | 99,377.53 |
| 1908 | 17,382.58 | 12,000.00 | 29,382.58 | 109,399.52 |
| 1909 | 18,493.90 | 12,000.00 | 30,493.90 | 102,293.35 |
| 1910 | 27,519.18 | 12,000.00 | 39,519.18 | 135,102.48 |

[2] These institutions and the amount they expended in 1910 are: The E. M. Byer's Home for Boys, $3,981.38; Colfax Neighborhood House, $203.40; Colorado Children's Home Society, $3,588.73; Colorado Humane Society, $3,091.13; Colorado Prison Association, $5,225.45; Colored Orphans and Old Folks Home, $1,105.05; Denver Orphans' Home, $18,123.53; Florence Crittenden Home (supported by the W. C. T. U. for abandoned unmarried mothers), $8,740.31; Frances Willard Settlement, $1,362.01; Globeville Social Service Club, $1,172.45; House of the Good Shepherd, $15,492.05; Jewish Relief Society, $9,946.15; Ladies Relief Society, $12,045.28; Mt. St. Vincent's Home, $14,058.88; Neighborhhod House Association (nominally a Social Settlement but in work, spirit and outlook at the most, thus far, only two recreation centers, on North and West side), $6,577.75; St. Clara's Orphanage, $16,207.01; Tabernacle Dispensary, $152.00; Visiting Nurses Association, $4,142.00; Visiting Society for Aged, $1,245.64; Women's Club Day Nursery, $1,783.32; Central Office (Outdoor Relief), $3,369.26.

[1] The defeated charter provided for a Department of Public Welfare, composed of three committes of three each, having charge, respectively, of charities, hospitals, and jails.

relief who have not been in Denver long enough to establish a residence, resident applicants being cared for by the county. The Charity Organization Society thus takes the place in city charity of the commission provided for by the charter. If the consolidation decision is sustained, that commission will be revived.

The charter provided for the election of two county judges, and made provisions for their sitting separately and en banc, but the anti-merger decision declared that on this subject the state alone could legislate. Hence the county court, and Judge Lindsey's unexcelled Juvenile Court and Detention Home, are provided for by state statutes. The Juvenile Court and its subsidiary Detention School (where boys are given a home pending trial, sentence, or separation from their own homes) are Denver's most progressive institutions, made world-famous by the energy and constructive ability of the "Kid's Judge." In 1910, 1,320 complaints were brought in the Juvenile Court against 1,615 boys and 255 girls. By careful discrimination, 474 cases, involving 605 boys and girls, were settled out of court, and 533 cases, involving 823 children, were brought to trial.[1] The charter provides for the election of three justices of the peace and constables. The minor infractions of city and state law are tried in Justices' courts.

Such are the city's important administrative departments. The second charter convention, in order to extend the influence of party, limited the application of the civil service to but three of these, the departments of police, fire, and public works.[1] The council was empowered to add others but all the succeeding councils have been guided by the same party and corporate spirit. The Civil Service is in charge of a Civil Service Commission of three, appointed by the mayor for six year terms, one each biennium. Not more than two of them can belong to the same political party. The commissioners receive their expenses only. It has power "to make and enforce rules" for the classified civil service, these rules to provide for open and competitive examinations as to fitness, an eligible list, a period of probation, and promotion on the basis of "merit, experience, and record." Its expenses for 1910 amounted to $1,827.10. It has not taken a prominent place in city administration. The city has not yet come to appreciate fully the need for and value of expert service in municipal business.

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[1] The most important of the charges were: Truancy, 158; incorrigibility, 115; malicious mischief, 99; larceny, 98; acting maliciously on or about tramway cars, 64; assault, 58; taking coal, etc., from railway companies, 36; running away from home, 34; disturbance, 33; burglary, 18; immoral conduct, 18. As to the Judge's disposition of the offenders, 28 girls and 273 boys were placed on probation; 23 girls and 93 boys were committed to the state's industrial schools; 19 girls and 123 boys were discharged; 10 girls were sent to the Crittendom Home or House of the Good Shepherd; 44 boys were ordered to pay costs or damages, 9 were committed to the Detention School, and 2 were sent to the Reformatory.

The city's elections are conducted by an Election Commission of three, elected at each general municipal election. Had it not been for the anti-merger decision, county as well as city officials would have been chosen at the municipal election, and hence would have been under the surveillance of this commission. Each commissioner must be twenty-five years of age, a duly qualified elector and taxpayer in the city and county, and for five years must have been a citizen of the United States. Vacancies in the commission are filled by the mayor, who must appoint to the vacancy the person nominated by the chairman of the political party of which the commissioner was a representative. The commission is vested "exclusively" with control over "the conduct, management, and control of the registration of voters, and of the holding of elections, canvassing the returns thereof and issuing certificates of election, and of all other matters pertaining to elections in the city and county." Each commissioner appoints one of the three election judges in each precinct, a duty that each member must perform for himself. The commission as a whole cannot perform it for him.[1] As the subject of elections is one vesting solely in the state,[2] the regulations as to registration, and all the provisions as to elections are contained in state statutes.

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[1] The rejected charter provided that all the officers and employees of the city and county other than the elective officials, the mayor's secretary and stenographer, department heads and commissions with one employee in each, the corporation counsel and his professional assistants, should be subject to the civil service.

The council levies the taxes for city purposes only, the attempt of the charter to make the council the tax-levying body for both city and county being thwarted by the anti-merger decision. Hence the county commissioners have thus far levied the tax for county purposes. The council levied 42.57 per cent. of the total tax levy of 1909, the county commissioners 15.72 per cent. of it, the school board, whose recommended tax the county commissioners must levy, 30 per cent., and the state 11.71 per cent. The charter fixes the maximum tax levy for both city and county at fifteen mills. Under the Johnson decision this maximum has been held to apply to the city only. If reconsolidation is upheld, the charter maximum levy of fifteen mills will again be in force. The state tax laws apply to Denver. About all that the city can do, under them, for they are wholly antedated and inefficient, is to provide, if the elected assessor wishes, a decent method of fixing values. This is now being unofficially undertaken. The taxes having been paid into the treasury, they are at once apportioned among the various funds, chief of which are the general fund, the park fund, the public library fund, bonded indebtedness, interest sinking, special deposit, and the police and fire department relief funds. Neither the council nor any officer has power to make contracts involving money until a definite amount has been set aside, sufficient to liquidate all liabilities of the city (and county) necessitated thereby. Appropriations cannot lawfully be exceeded. City bonds and loans can be issued solely upon an affirmative vote of the city's qualified taxpayers, and "the city (and county) shall not become indebted for any purpose or in any manner to an amount which, including existing indebtedness shall exceed three per cent. of the assessed valuation of the taxable property within the city and county. . . . Bonds issued for the acquisition of water, light or other pubilc utilities works or ways from which the city (and county) will derive a revenue," are not to be counted in determining the maximum limit of indebtedness. The charter thus incorporates the three per cent. limit laid down by the constitution. The constitutional limit would have superseded any higher charter limit anyhow. The words "and county" have been put in parentheses because the anti-merger decision in effect cut them out. The recent reconsolidation decision, if upheld, will replace them.

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[1] People v. Youngs, 43 Colo., 334. April, 1908.

[2] By the defeated charter, the election commission was to be appointed by the mayor and was given, in addition to the above powers, sole control over regist ation of voters with power over the purging of the registration lists, nomination of candidates, and preparation of ballots. It also provided for a headless ballot, and limited the furnishing of conveyances on election day to the electors that were members of the family of the person furnishing the same.

## PUBLIC SERVICE CORPORATIONS.

The home rule amendment contained two provisions as to public service corporations by which it was sought to make the relations between the city's government and the city's public utilities less intimate and make the latter feel more definitely their responsibility to the electorate. The first was the provision that franchises should be granted only upon a vote of the city's tax-paying electors; the other was the provision that the electorate could initiate and pass upon franchises in the same manner that it could initiate and pass upon charter amendments and "measures." The charter restated these provisions and the provision of the general law that franchise tenures should be limited to twenty years, and provided that the council could grant *revocable* street permits. Whether the city's voters could intelligently pass upon such ordinances and franchises, and whether these provisions were to free the city's government from manipulation by public service corporations, awaited the test of succeeding years.

The Tramway's prosperity multiplied with the city's industrial prosperity. In 1904, for instance, the company earned a surplus of $508,290.26 above the cost of all operating expenses, interest, and taxes. Its taxes, however, were, as usual, very slight indeed. The assessed value of the entire plant was, in 1905, $2,477,120; in 1910, $4,080,310.

The company had not forgotten how to make the most of its claim to a perpetual franchise. This claim had been strengthened, and the company's influence in the legislative department of the city revealed, by another franchise,[1] passed November 19, 1902, endowing the company with full street railway privileges for extensions in streets not theretofore designated, and valid for twenty years after the passage of the ordinance, not after the passage of the original franchise. It was granted "for the carriage of passengers," a clause necessitated by the influence in council circles of the coal concerns of the state, which were desirous of preventing the Tramway from being used for the distribution of coal brought in by the Moffat Railroad. The city reserved to itself "all legislative police functions with respect to the streets." An attempt was made, through the courts,[2] to enjoin the council and mayor from passing the franchise, on the grounds that the company's original franchise would, or should, be held to expire in a few years, and that this new franchise should be so limited in time as to expire on the same date that the original franchise expired, as otherwise the city would or could be practically deprived of its right to pass upon a new franchise when the original expired. The court, however, held that it could not, by injunction, inhibit a city council from passing an ordinance, and that redress could be secured only after the ordinance had been passed. No further measures were taken.

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[1] Franchises, '07, p. 431.

[2] Tibbets v. The People, 31 Colo., 461.

The twenty-year limit for the original franchise came to an end in 1905. The Tramway, of course, made no move to secure a new franchise. Public opinion, however, had come to be more adverse to perpetual franchises and had come also to demand reasonable compensation to the city. The Tramway, noting this trend of public opinion, and fearing a judicial decision adverse to franchises in perpetuity, decided to make sure of its future rights, while reserving all its claimed rights, and to secure lower compensation, social and financial, by "voluntarily" asking the city's tax-paying electorate to grant a new franchise at the municipal election to be held on May 15, 1906. This "offer" was a result of the demand by Denver's citizenry, not by her city officials, though the company's franchise had expired, if it were not perpetual, in 1905. The company accordingly prepared and submitted its franchise.

The company prefaced its franchise,[1] with several "whereas's" which both threatened and allured the public. It first threatened endless litigation, averring that the company "is now entitled, and has at all times and will indefinitely be entitled, under the terms of (its) ordinances, grants, franchises and rights of way, and without further grant or franchise from the city, to operate and maintain all of its present system of street railways on the streets hereinafter enumerated, and to extend the construction and operation of its street railway system wherever such extensions and operations are required for the public convenience." It admitted that these "rights and claims . . . have at certain times been denied by the officers of the city . . . of Denver," and called attention to the fact that "a contention and litigation" had arisen, "a portion of which litigation is now pending and unsettled." It said that "the duly qualified taxpaying electors" desired that "certain extensions, betterments, new construction and improvements" should be undertaken "wholly at the expense" of the Tramway Company, "without awaiting the outcome of the various contentions and litigations." These extensions and improvements, the franchise went on to say, the company would not undertake before the litigation was ended, if then, unless the franchise was voted, in which case they would be begun forthwith. Thirty-two paragraphs of extensions and three viaducts, all of interest to the numerous taxpaying electors along their routes, were enumerated, and these the company agreed to construct at the rate of "at least ten miles per year." It took care, however, not to be definite about what improvements should be undertaken first. It also carefully provided that the only penalty that could be inflicted for not making any given extensions would be that the company's rights to those streets should be thereby "forfeited and annulled." But as no one could show that a specific improvement might not be undertaken next, this penalty was valueless, as it has already been amply proved to be in practice. The company has undertaken such extensions only as it willed, and the public has had no recourse. Another alluring bid for votes was the provision that the company would pay $1,200,000 to the city "as a further consideration for this franchise and grant." But this compensation was to free the company from "any car licenses now or hereafter, during the life of this franchise." A nominal car license of about $5,000 annually had been revived.[1] This fund was, moreover, to be kept separate as "The Tramway Fund," and "used solely for the establishment, improvement and maintenance of the streets, boulevards, and parks" of the city. The Tramway, whenever required by city ordinance, was also to pave between its tracks and two feet on each side thereof. The fare was limited to five cents, children over six and under twelve to be granted half fare. Transfers were to be granted to intersecting lines. The city reserved to itself "all legislative police functions" as to the streets. And finally, twice repeated, was the provision that the franchise grant should "be without prejudice of any kind to the rights, claims, contentions or litigation now existing."

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[1] Franchises, '07, p. 434.

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[1] In 1899, the license totaled $1,975; in 1900, $1,912.50; 1904, $5,077.65; 1905, $5,300.59. It was $1.09 per car foot per year.

Thus the Tramway so framed its franchise that the Tramway would gain much and lose nothing by its adoption. Should the courts decide in favor of its perpetual franchise, the company would let this new franchise become void through non-use; if the court decided against its perpetual franchise, this new one contained fewer concessions to the public than could possibly be expected after the claim to a perpetual franchise had been overthrown. On the other hand, the referendum to the people secured the best franchise yet granted in Denver; there was some measurable compensation and there were provisions for the protection of the city's social needs. But, like a party platform, the franchise made the maximum amount of promises with the minimum amount of possible enforcement of those promises. Though drawn by but one party to the contract, with just sufficient allurements to prevent its rejection by the other, yet the necessity of referring it to the people secured far more recognition of the public's rights and interests than had ever, in all the city's history, been secured from a council. The franchise was adopted by a bare majority of about 75 votes.

The decision, discussed in the preceding chapter, giving dubious sanction to the perpetuity of the Tramway's franchise, was allowed to drag along "without application for a final hearing until in 1907," when it was decided, by the Judge of the United States Circuit Court in Denver, that this franchise was valid until 1935; whether it was valid beyond that point not being decided. "The long delay between the rendition of said first decision and the last one was deliberately sought for and obtained" by the Tramway, through its

President, averred the *News-Times* in its answer[1] to William G. Evans' libel suit, that "said company might negotiate the securities of said company, its stocks and bonds, upon the basis of its having a perpetual blanket franchise upon all of the streets of the city of Denver and thereby obtain from purchasers . . . more than could have been obtained had the true facts been known." The city appealed the case but no decision had been made when the reconstructed Colorado Supreme Court, in March, 1910, handed down a decision[2] in which it clearly ruled against all perpetual franchises, on the grounds that they were prohibited by the constitutional provision[3] that no law "making any irrevocable grant of special privileges, franchises or immunities shall be passed by the General Assembly." The only Tramway franchise now valid, therefore, is the one adopted by the electorate in May of 1906.

The franchise secured, the company increased[4] its capital stock from $5,000,000 to $20,000,000. Recently the company has begun to complete its control of all the interurban service entering Denver,[5] thus widely extending its intercorporate relations.[6] Especially since 1904, the company has received every possible favor and assistance from the city's officials. Because of the advantages accruing from such cordial relationships, it has never failed to interest itself in the city's elections, and in the administration of the city's government.

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[1] Published in full in *News* of May 25, 1910.

[2] Leadville vs. Leadville Sewer Co. No. 6,616.

[3] Art. II, Sec. 11.

[4] February 21, 1907. Filed in Office of Sec. of State, Feb. 21, 1910. Folio No. 17,668, Dom. Corps.

[5] Lately, 1911, the company has added The Denver & Inter-Mountain Line.

[6] Its directors in 1909 were W. G. Evans, J. A. Beeler, Rodney Curtis, Thomas Keely, S. M. Perry, F. S. Moffat (a nephew of D. H. Moffat), C. J. Hughes, Jr. (the company's atty., elected U. S. Senator), Gerald Hughes and B. A. Jackson. The only change since 1905 was the election of Gerald Hughes in the place of S. M. Colt.

At the same election, The Denver Gas and Electric Company sought, from the taxpaying electorate, a new franchise. It, too, had claims to a perpetual and to a fifty-year franchise, and hence put into the franchise to be submitted to the referendum a reservation as to any and all of its existing rights. Its varying franchises for the several towns consolidated into the City and County of Denver made it advisable to secure a franchise alike applicable to all parts of the new corporation. Of course, the company's own attorney drew up the franchise. The city's taxpayers were now asked to adopt it.

The franchise[1] gave to The Denver Gas and Electric Company the right for twenty years thereafter to produce and distribute gas and electricity "for illuminating, heating, or power purposes" in all of the city's twenty-eight pages of streets. The transfer of the La Combe property to the company was validated, though, in accordance with the La Combe franchise, the city in that year could have purchased the La Combe plant for $150,000, and thus secured an ample lighting plant of its own. Its poles, the company was to erect and maintain in good repair, and keep painted in a manner approved by the city's Art Commission. The company was to extend its lines, at its own expense, a distance of 100 feet to supply any consumer who would "agree to use" gas or electricity, or both, as the case might be, "for at least one year." The maximum rates for incandescent lighting on a meter basis was fixed at ten cents per kilowatt hour;[2] at five cents per hour on "the Readiness-to-serve basis;[3] and at four cents per hour for power. The maximum rate for gas was fixed at $1.10 per 1,000 cubic feet, or on "the

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[1] Franchises, 1907, p. 57.

[2] "On yearly contracts, not exceeding $9 per year per consumer, plus $1.80 per year per 16 c.p. demanded plus 5 cents per hour for current used."

[3] Provided that the company "receive not less than 5 cents per month for each lamp installed, but in no case less than one dollar per month per consumer."

Readiness-to-serve basis" at 70 cents per 1,000 cubic feet plus certain fixed charges.[1] For all bills paid within ten days a discount of ten per cent. was to be given. Lighting for public use was at the same rate, save that the rate for arc lamps was fixed at $4 per month in public parks, and $60 per year in the city, and that the rate for 500 c.p. gas street lamps was fixed at $28 per month. The company was to pay into the city treasury "all that part of its gross receipts from the sale of gas and electricity" "in excess of an average" of designated prices for designated years. These prices, together with the maximum charge above noted, and the difference between this maximum charge and the minimum average rate permissible to the company, all or part of which might go into the city treasury, are given in the table following:

FOR GAS.

| Years. | Minimum Average Rate Permissible to Company. | Maximum Charge to Consumer. | Into City Treasury or Reduction in Rates. |
|---|---|---|---|
| 1906–07 | 95 cts. per 1,000 cu. ft. | $1.10 per 1,000 cu. ft. | 15 cents. |
| 1908–09 | 90 " " " " | " " " " | 20 " |
| 1910–11 | 85 " " " " | " " " " | 25 " |
| 1912–13 | 80 " " " " | " " " " | 30 " |
| 1914–26 | 75 " " " " | " " " " | 35 " |

FOR ELECTRICITY.

| | | | |
|---|---|---|---|
| 1906–07 | 7.5 cts. per kilowatt hr. | 10 cts. per kilowatt hr. | 2.5 cts. |
| 1908–09 | 7.1 " " " " | " " " " " | 2.9 " |
| 1910–11 | 6.7 " " " " | " " " " " | 3.3 " |
| 1912–13 | 6.3 " " " " | " " " " " | 3.7 " |
| 1914–26 | 6 " " " " | " " " " " | 4 " |

To be sure the differences in rates noted in the right-hand column would never be as large as there given, because the company charged less than the maximum charge to those of its consumers who made large light orders, and it is the average rate that is to be taken. Yet, taking this into consideration, here is a decided difference in rates, which can go, in whole or in part, as the company wishes, either to the consumer in lower rates, or into the city treasury, or both—a sort of indirect tax. This gives added incentive for a friendly alliance with city officials desirous of party funds. In 1910, the company chose to lower rates, and made the rate for electricity eight cents per kilowatt hour and for gas $1.00 per 1,000 cubic feet. To ward off direct legislation, such will, no doubt, be the usual course pursued. "As a further consideration for this franchise," the company agreed to pay annually $50,000 into the city treasury. This sum, however, was then not one-half, is now not one-third, and soon will be not one-fifth, of what the city pays the company for light.[1]

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[1] "Not exceeding $9 per year consumer, plus $24 per year per horse power demanded." Natural gas was to be 40c. per 1,000 cu. ft.

This franchise was a vast improvement over previous lighting franchises, in compensation, in rates, and in extensions, but it was not all an enlightened public was ready to demand. The elector's only power now, however, was either to accept or reject it. A tide for rejection began to rise rapidly. The company met it by large campaign contributions, Frueauff, the general manager, alone spending over $67,000,[2] and by creating "qualified taxpayers" out of their employees and clingers, through giving them receipts for first payments of a few cents each on lots in a distant and valueless property. The franchise was adopted, though by a majority of but one hundred and fifty.

Three years thereafter, the company decided that its returns would justify a threefold larger capitalization. To go through the form of legalizing this, and to extend its objects and purposes, the company took out, on November 29, 1909, new articles of incorporation.[1] It increased its capital from $1,500,000 to $10,000,000, $2,000,000 of which was issued at once. At the present time it is considering the issuance of the remainder. All this is water. The company later certified[2] that all of the $3,500,000 in stock was "actually paid in," $1,300 in cash and $3,498,700 in property. Its objects were enlarged to include steam plants, as well as gas and electric plants, with power to purchase the franchises of such plants, thus looking toward the absorption of steam heating concerns. It also extended its powers to include the acquisition and operation of coal mines in any part of the state,[3] thus joining its interests with the state's coal companies (or company?). And now it is reported that The Cities Service Company, a new holding corporation, has taken over not only The Denver Gas and Electric Company, but other big western light and power interests.

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[1] The city's expenditures for light have been as follows: 1906, $104,403.64; 1907, $107,365.91; 1908, $135,692.43; 1910, $161,694.95. From Auditor's Reports.

[2] See Judge Ben B. Lindsey's "The Beast and the Jungle." It is accurate and has been amply verified.

The company's published report for 1910 reveals the great value of its franchise. In that year the gas sales increased 11 per cent. in quantity and 10 per cent. in gross receipts, the electric sales increased 12 per cent. in quantity and 8.7 per cent. in gross receipts. The assets of the company amounted, in 1910, to $13,187,975.46, an increase over 1909, of $584,836.66. Yet it was assessed in 1910 but $2,200,000.

The twenty-year water franchise of 1890 provided that, at its *expiration*, "in case the city shall *then* elect so to do, the said works may be purchased by the said city, and in case the parties cannot agree, *after such election*, upon the price to be paid by the city for the water of said company, its successors and assigns, their fair cash value shall be determined by arbitration, by five disinterested persons, none of whom shall be residents of Denver, two of them to be chosen by the city, two by the company and the fifth by the four first chosen; . . . and upon the payment, or tender of payment, by said city the said company shall convey to said city all of its property, real or personal, easements, rights and privileges." It should be noticed that the choice was to be made at the expiration of the franchise, and that the appraisement was to *follow* the decision for municipal ownership. An association had been organized in 1905 to promote municipal ownership. Its strength and influence had caused the insertion of better clauses in the Tramway and gas franchises voted on in 1906. But the city had in no sense passed upon the municipal ownership of its water plant when in 1907, three years before the expiration of the franchise, the city and the water company reached an agreement whereby, on October 10, five appraisers[1] were chosen in the manner given above, and authorized by ordinance[2] to view, examine, and appraise the property in question. A year and a half thereafter, on March 20, 1909, these appraisers reported. They fixed "the fair cash value of the property, business and rights, . . . which are in any way connected with or related to The Denver Union Water Company, or held by its allied or auxiliary corporations or associations, or persons connected with it, or necessary or useful for its protection, maintenance, and operation, at the sum of $14,400,000." It paid taxes the year thereafter, it must be said, on a valuation of but $2,500,000. Of this $14,400,000, $10,354,075 were assigned to the physical value of the plant, $2,845,925 to the water rights owned by the company, and $1,200,000 for "business and going concern value, . . . and the value of the business during the remainder of the present franchise term."

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[1] Folio 50,730, Dom. Corps. Office of Sec. of State.

[2] February 26, 1910. Folio No. 18,042. Office of Sec. of State.

[3] The incorporators were Willis V. Elliott, Rodney J. Bardwell, and Charles A. Fruesauff. The President was Henry L. Doherty, the Vice President, Frank W. Fruesauff, both of 60 Wall Street, New York; the Secretary was C. N. Stannard of Denver. The Board of Directors were Willis V. Elliott, R. J. Bardwell, Charles A. Fruesauff, Roy C. Hecox, H. H. Scott, Paul R. Jones, Harry T. Hughes, J. M. Mulvihill, Thomas F. Kennedy, Edgar McComb, George W. Bickler, W. C. Sterne, and A. F. Traver.

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[1] M. S. Holman, John R. Freeman, C. L. Harrison, Allen Hasen, and Frederick P. Stearns.

[2] Ordinance No. 163, Series of 1907.

With the publication of this report, public interest was aroused, to grow ever more intense until the returns of the election, held on May 17, 1910, were fully known. The appraisal was bitterly assailed, especially the value of the water rights and the $1,200,000 allowed for "the value of the business during the *remainder* of the present franchise term," etc., when the purchase value was to be that at the *expiration* of the franchise term. As time passed, and the appraisement, and the company's properties were more maturely considered, the revolt against the appraised value became more and more pronounced. It was vehemently urged that the appraisal was the company's own appraisal, since the city's officials were but the tools of the public utility trust, which had nominated and elected them. That the company had deeply interested itself in every election since the adoption of the charter, and that the leading city officials, the mayor and the majority of the council, were officials wholly acceptable to the Water company, are facts that cannot be questioned, and no one at all intimate with Denver affairs has ever denied them.

In effect, two tickets were put into the field for the election of May 17. On the one hand were the party nominees of both the regular Republican and the Democratc party machine, the utility corporations having little or no choice as to which should win; on the other hand were the nominees of the Citizens' party. The former championed the water company's franchise; the latter fought for its rejection.

The water company had put its franchise before the public long before these nominations were made, and it had been and was, until the election was over, subjected to a searching examination, such as no franchise offered in Denver had ever received before.

The franchise provided that consumers could make connections with the company's mains[1] only upon written application, this application to "have printed thereon the reasonable rules of the grantee concerning such connection, the use of water and the payment therefor." This made impossible any appeal for redress after the contract was once accepted. Section three gave to the company "The right to charge" (not "shall not charge over" as in the franchise of 1890) the rates thereto affixed, which were declared to be "just and reasonable charges for such water and service," thus making it impossible to appeal to a court to decide upon the reasonableness of the rates. In 1907 the Supreme Court had declared Judge Le Fevre's rates of 1898, to be "unfair, unjust, and unreasonable" whereupon the company lowered its rates. After the appraisement was made public, rates were again slightly lowered. In these rates the "franchise schedule" made few changes save to increase the company's freedom through the use of maximum and minimum charges. For instance, slaughter houses were to pay anywhere from $20 to $400; soap manufactories anywhere from $80 to $600. The irrigation rates and the meter rates were likewise solely under the company's control. The standard adopted as to the quality of water the company should furnish, was not one that would be of any value in a court. The water was to be "potable; of a quality suitable for culinary and domestic uses; scientifically treated and filtered, and the equal in quality of the water furnished by the grantee for the past five years." Extensions were to be made as "directed by ordinances," *provided* they should "not exceed ten miles in any calendar year, nor be for less than six hundred contiguous feet." There was no provision by which a consumer could get extensions if he were less than six hundred feet from the mains. Moreover, none of these extensions could be required until the company was "*assured* of an annual revenue" therefrom, "amounting to *not less than*

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[1] If an owner living upon any "street, alley, or public place in which a water pipe or main is maintained."

*five per cent.* of the cost of such material and work." Of this latter fact, none but the company could be the judge, hence, in effect, especially with a friendly city government, no extensions could be required. "During the term of this franchise," read section 16, "the City and County of Denver shall not erect, construct, maintain or operate, any competing plant, or system for the sale and delivery of water nor be directly interested in the same." This clause was inserted with the thought of giving the company an exclusive franchise despite the constitutional and the charter provision that no exclusive franchise could be granted. At the expiration of the franchise, the city was given the right to purchase the company's property "at its fair cash value," which was to be determined as by the franchise of 1890. The franchise thus gave no protection nor rights to the consumer, no rights whatsoever for inspection by the city, no social compensation in the way of extensions or lower rates. All pecuniary compensation, even, the company sought to evade by a clause that purported to give the city "water and service not exceeding in value $100,000 annually." But included within this "gift," was all the water granted to the city gratis by the franchise of 1890, the only new additions being for new parks and boulevards; hence there would be little, if any, reduction, in the nearly $100,000[1] that the city annually pays the company for water. No penalty whatsoever was provided for, in case the company violated any of the provisions of the franchise. In short, the company sought to endow itself with valuable rights without making the slightest return for them.

Adverse criticism of the grant became so rife that the Citizens' party, through the initiative provisions of the home rule amendment and charter, by a petition signed by 12,107 qualified electors, nearly twice the ten per cent. required, put before the electorate a charter amendment amending those provisions of the charter whereby public ownership was made dependent upon a twenty-five per cent. petition and the will of the board of public works, and creating a public utilities commission with all the powers in such premises granted by the charter to the board of public works. This commission was to consist of three members, elected for six-year terms, with a salary of $4,000 annually. The members of the first commission were named in the amendment. To this commission was granted full power to acquire and operate a waterworks system for the city. The City Engineer, John B. Hunter, had given an official report in which he stated that the company's plant could be duplicated for $8,000,000. Through the Citizens' party, another similar investigation was made with like results. The amendment, therefore, gave the commission the power to submit to the electorate for approval $8,000,000 in bonds. If the company elected to take $7,000,000 for its plant, the commission was enjoined to purchase it, the electorate approving, and to use the remaining $1,000,000 in extensions and repairs. If the company did not wish to sell at $7,000,000, the commission was authorized to submit to the electorate a bond issue of $8,000,000, and, if this was ratified, to proceed to erect therewith, and after its completion operate, a municipal water plant.

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[1] In 1906, $96,313.14; in 1907, $93,303.29; in 1908, $97,427.24; in 1911, $91,829.19.

Two other amendments were put before the electorate, both purporting to make for municipal ownership, their real purpose being to divide the Citizen vote. One was a similar charter amendment, creating a public utilities board, the other was a propisition nominally championed by Mayor Speer, denominated "a Business Settlement of the Water Question, removing it from politics, compelling all taxable property, including corporation and vacant property, to pay its proportionate share for a water plant, by creating a non-partisan Commission of Five." As neither of these were considered seriously by any one, least of all by the Mayor, they need not be given further consideration.

The campaign waxed warm indeed, the *News* alone, which championed the Citizens' cause, printing scores of columns upon the issue. The questions that received most attention were the water company's proffered rates and its profits. The rates in all the leading cities were compared with the company's rates. D. H. Moffat, as President of the Water Company, issued several public letters, in one of which he maintained that he had made practically no profit in the water venture. The *News*[1] essayed to prove that, through The Mountain Water Works Construction Company, the water interests had made 242 per cent. on their actual investment, and quoted court records to sustain its contention. Again the water company asserted that, under municipal ownership consumers would have to pay over 50 per cent. more for water than they would under the franchise; the Citizens' defenders marshalled many figures to prove the consumer would pay less. The company contended that by the franchise provisions above noted the city must either buy at the appraised value or grant a new franchise; John A. Rush, Senator Patterson, C. S. Thomas and others cited cases to show that the city need do neither. Then the company urged that the city could not elect to purchase after April 10, the expiration of the old franchise; the Citizens' devotees answered that the city was free to adopt any measure it chose after the old contract had expired. And so the battle waged until the election day on May 17. Oh that day every attempt was made by the Citizens' party, though not with entire success, so many an election worker alleged, to prevent the misuse of funds. A count of the votes revealed that the Citizens' water amendment had won by a vote of 11,582 to 10,076. The company's franchise was defeated by a vote of 15,107 to 9,943. The referendum had proved itself an efficient agent for the rejection of a one-sided franchise.

On May 31, just as soon as the Citizens' commission went into office, it formally sent to President Moffat, in accordance with the adopted charter amendment, an offer of $7,000,000 in municipal bonds for the water plant, free of all incumbrances and indebtedness. This offer, on June 9, Mr. Moffat refused. The commission then duly submitted, on September 6, the proposition for a municipal bond issue of $8,000,000 for the construction of the city's own municipal plant. The proposition carried by a large majority. To date, the construction of the municipal plant has been thwarted by judicial proceedings. On August 22, the water company asked Judge Lewis of the Federal District Court to grant an injunction restraining the commission (while not forbidding the bond election) from disposing, until after final adjudication, of these $8,000,000 in bonds. The injunction was prayed for on the grounds that the city, by the franchise of 1890, was obligated either to purchase at an appraised valuation or to grant a new franchise. Judge Lewis granted a temporary injunction as the company prayed. On May 19, 1911, the U. S. Circuit Court upheld the jurisdiction and injunction of Judge Lewis, and here the case stands, still to be tried upon its merits before the District Court and then, on appeal, before the Supreme Court of the United States. And again the Federal Courts under an amendment to the national constitution designed and adopted with quite other objects in view, have interceded to prevent Denver's electorate from getting rid of a bad bargain made by its own aldermen.

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[1] See daily issues of May 10 following.

These were the only franchises granted during this period. Street rights were, as usual, given without compensation to railroad companies, with the one decided difference over previous periods, that they were all *revocable*, as the home rule charter provided they must be. During the current year, an aroused public opinion has caused more consideration to be given to these permits to use the city's streets. The city wishes a new and better Union Depot. The railroad companies did not take steps to grant it, whereupon the city public began to realize that rights in their common property, the city's streets, had been gratuitously granted to such companies, and that some compensation therefor might be justly expected.

The referendum on franchises has effected a permanent change of attitude both on the part of the public and of the utility corporations. The public has learned its power and its rights; the companies have learned to respect these rights and powers. This changed attitude, and also the power of the mere existence of the right of initiative, were revealed in the recently adopted pact between the city and The Colorado Telephone Company. In 1903, one Herbert George brought suit to compel this company to lower its rates. Through the intercession[1] of the Hon. Simon Guggenheim, President of the Smelter Trust, and now United States Senator from Colorado, the case was dropped. At the November election of 1906, a franchise was adopted, by referendum, for an independent telephone company with the promise of the lower rates. The franchise was never used. Such agitation for lower rates continued and began to assume proportions that threatened an initiative ordinance lowering rates. Further impetus was given to this movement by the fact that the company had made no attempt to secure a new underground franchise when its twenty-year underground franchise of 1889 expired in 1909, asserting that it did not have to secure a new franchise in order to operate in the city. In deference to this growing adverse sentiment, assertive in other cities where the company was operating, as well as in Denver, instead of lower rates, the company, at the suggestion of certain city aldermen, agreed, in May, 1911, to pay to the city, annually, two per cent. of its gross receipts for local service, no right of inspection of receipts being granted to the city. This would amount to about $25,000 the first year, and would increase about $1,500 every year thereafter. The payment was to be in lieu of all payments for excavation permits, etc., and was to be used solely for the "streets, boulevards, parks, and other public places" in the city. The Real Estate Exchange, by resolution, objected to the pact and asked for its repeal on the ground that it was an admission that the company could operate without a franchise. To this it was answered, that the pact contained a clause to the effect that its issue should in no way prejudice "the existing rights of either party against the other" and that, under the home rule amendment, a franchise could be granted only by the taxpaying electorate and not by the council. An initiative ordinance submitting the contract to the electorate has just been signed by the requisite number of voters.

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[1] *Arena*, 34; 494.

The initiative and referendum thus proved to be efficient agencies in securing better franchises and lower rates than were secured from the council under the old regime. The referendum on franchises, when the power to frame them vests solely with the company, proved, however, to be abortive of the best results. It secured better franchises, but franchises with just sufficient recognition of the social rights, needs, and wishes of the city to secure adoption. It did not remove the corporations from politics. To be sure they no longer spent their funds in bribing supine councilmen, and they learned to pay a greater deference to the demands of the electorate. It did not divorce these corporations from the city government, as there were valuable favors other than franchises that could be granted by a freindly city government. Hence, the public utilities, save in the election of 1910, saw to it that their friends occupied the high places in the city's government. The referendum on franchises has had the added disadvantage of taking the attention of the electorate away from questions of efficiency in city government, and placing it solely upon franchises. All this was, as a step, probably worth while, for the referendum has awakened the city to the value of its franchises. More than this, it has awakened it to the close alliance, the unity, indeed, of its government and its public utilities. The referendum has taught the public, and even in some measure, the corporations, that public service corporations are *social, not private,* institutions, that they are sanctioned and legalized by *society, not* by their incorporators, that they exist primarily for the advancement of *social not* individual ends. A greater work no other political agency could have performed. Heretofore the city's public service corporations have thought of themselves solely as independent business concerns that were being subjected to futile, unnecessarily vexatious "governmental interference."

### HOME RULE IN OPERATION.

The essence of home rule is the freedom and power of a city to think for itself, and to direct its own activities. Municipal elections must be fought out on municipal issues, not on state or national issues. Municipal officials must be chosen to administer to the needs and business of the city, and not to be the subservient tools of party or of any other non-municipal interest. Home rule is largely an empty name, if municipal officers are chosen by special interests, or solely for party ends. Subserviency to such an extra-legal group of men, no matter under what name they associate themselves, is more deleterious by far than subserviency to the state legislature. Extra-legal groups cannot be held to account; the state legislature, in appearance, can. Home rule, to be actual rather than nominal, must mean something more than a larger grant of powers; something more than freedom to create at home the city's plan of government. It must mean the settling of municipal campaign issues by the municipal voters themselves. It must mean the choice of the city's officials primarily on the ground of fitness for office. Home rule implies that the electorate are the rulers, not the ruled.

The leading obstacle to home rule of this kind in Denver has been the untoward influence of the city's public utilities, expressed through party machinery.

The pulse of party life and the attention paid to political issues responds to the ebb and flow of prosperity. The era of special stress that followed the panic of 1893 evoked a lively interest in affairs governmental and for a while the will of a determined electorate prevailed. But with the return of prosperity, the majority of the electors turned their thoughts to their own activities and left their governmental machinery to be run at will by those that wished to control it for profit, in this case, the public utility corporations and their friends.

The tendency of these interests to control party groups in the decade preceding was noted in the foregoing chapter. Three factors combined to increase such a tendency during this period, increase it until corporate control of party machinery became a generally accepted situation. One of these factors was a differing source of strength between the two major parties, the Republicans and the Democrats. The former was stronger in the state, the latter in the city. To correlate them and to make them a unit in services to the corporations, the allied "interests" dominantly concerned themselves with nominations in both parties. The second factor was the rapidly increasing intercorporate relations between Denver's public utility corporations and the state's industrial corporations. The tendency, noted in the preceding period, for the city's public utilities to unite now culminated in actual, if not corporate, unity. The state's industrial corporations had come to act as a unit in state politics, the city's public utilities in city politics. The corporations of state and city now naturally tended to unite their political activities in order to secure the maximum service and protection from both city and state governments. Thus both parties became subservient to the same corporate control. The third factor was the absorption of the voter in advancing his own prosperity. His success was such that he was not impressed with the need or value of making his government a co-operative agency in further advancing his industrial opportunities.

Corporate influence was lively during the campaigns of 1900 and 1902. In 1904, the corporations began to shape government as they willed. Corporate influence, it has been noted, defeated a charter drawn in the interests of the many, and then made and adopted one to suit the corporations. In the spring of 1904, because of the valuable franchises at stake, the four public utilities backed the men of their choice, and elected them. The chief of these was Robert W. Speer, a Democrat, as mayor. The defeated Republican candidate for mayor, John W. Springer, his friends, and certain unbiased observers declared and sought to prove that bribery was resorted to in the election and that 15,000 fraudulent votes were counted. In the fall election for state and county officers in 1904, it was to the interests of these same corporations, and their friends, the state's industrial corporations, in order to control the Colorado Supreme Court, to elect the Republican ticket. They secured the renomination of Governor Peabody, and then, after his defeat at the polls, secured, by legislative bribery and by intrigue, the ousting of Governor-elect Adams, the resignation of Governor Peabody, the qualification of Lieutenant Governor Jesse F. McDonald, and the appointment of acceptable Supreme Court Justices. The public utilities and their issues have overshadowed all questions of municipal efficiency, as shown in the franchise campaigns depicted above. In the municipal election of 1908, they renominated and re-elected Mayor Speer. The last three state elections have likewise been carried too largely through corporate influences.

Some of the leading factors tending to perpetuate this close alliance between "business" and politics are: (1) Such concerns depend upon the securing of privileges and rights through the avenues of government; (2) the unity of corporate interests and the differing relative strengths of the two political parties in Denver and in Colorado make for identical corporate control of the machinery of both parties; (3) the merging of the physical city and county of Denver by the state legislature, and the divorce of their officers by the state judiciary. This last situation causes a unified urban community to be ruled over by two sets of officers, one set elected at the spring municipal election, the other at the fall state election. Division of spoils, control of both elections by moneyed interests, and numerous other kindred ills are the result of such an arrangement. Such conditions cause the city government to lose in efficiency. Home rule has given thus far only the power and agencies of self rule. These agencies have but once been efficiently used and that was in the municipal election of 1910.

The results of this election give some indication that actual home rule may yet exist, not because the issues were decided one way or the other, but because, in a relatively fair election, the electorate, itself, acted for itself. The results of the election were of vital import to every voter. The issues were in no sense abstract; they were clear-cut and concrete. There were 83 nominees for 22 offices, and twenty-three referendal propositions to decide upon. Regardless of whether or not the choice of the voters was wise, *they* made the choice, became the governors, not the governed. The chief factors contributing toward this sovereignty of the electorate and the enthronement of the-good-of-the-many as the co-ruler with the-good-of-the-one are: (1) The group consciousness of the labor interests, born of the labor struggles of the late "nineties." This group consciousness is tending in Denver, as it is everywhere, to become critical, to think and to act for itself. (2) The growing numbers of those of independent, though not large means, who have come to the city because of its climate and location. These would naturally prefer to rule themselves. (3) The growing number of skilled laborers and professional men whose interests are linked with the city's social, rather than with her industrial interests. (4) The granting of woman's suffrage, in so far as it gave the suffrage to women with means and incomes of their own. (5) The large number of immigrants, especially Italians, who have lately swarmed into the city. Each and all of these groups can best further their interests through influencing municipal issues at least sufficiently to secure attention to their wants and needs. The old industrial order cannot forever withstand the united efforts of these groups. It is already in a minority, it would seem, and is maintaining its supremacy only because of its better organization. It is not meant by any means that its voice should never be heard, but there is no reason why the voice of this group should be the only voice heard. What is needed is a wholesome democracy, in which the needs of its every constituent group can find its necessary expression. Such a thing as an efficient government is unthinkable when the needs of one group only, and that a minority group, monopolize governmental agencies.

Home rule has had numerous advantages, advantages eminently worth while in themselves, even when the city has been controlled by its public utility corporations. Home rule has in no sense aided such control. It furnishes the agencies for getting rid of it. And that is just what Denver is doing today. Denver has accomplished much under home rule that she could never have accomplished, would never have conceived, under legislative rule. The throwing off of undue corporate influence is but one of the evidences of what a home rule city can accomplish. Such a city can meet its own municipal problems, gigantic though they be, with some surety of success. Home rule is a boon that may well be craved by every aggressive city.

# CHAPTER VII.

## CONCLUSION.

In the evolution of Denver's government, the tendency that has been most persistent and characteristic has been the tendency to centralize power in the hands of the mayor. Since the days when the pure council form was proved inefficient, all the administrative changes, if made in the interests of efficiency, whether made by statute or by custom, have tended toward such centralization. This tendency has been accompanied by a slight tendency to decrease the number of elective officials, a tendency that extra-municipal interests have, for selfish interests, all too largely thwarted. There is nothing fundamentally democratic in having numerous elective officials, that power may be so diffused among the many, that the deflection of one official may not bring heavy ills to the community. This is but a confession of lack of faith in the public's servants. To be successful, Democracy, like any other government, must mean efficiency, and efficiency requires power, freedom of action, and undivided responsibility. This salient principle of efficient government, Denver has slowly but surely adopted by ever granting larger powers to its administrative chief. The political party and the public utilities have not thwarted this tendency because they could, with a passive electorate, make the mayor subservient to their will and thus make his greater powers redound to their interests. This is not, in itself, an objection to the mayor plan. Under like circumstances any form could be so subverted.

The second tendency that has persistently characterized the city's governmental history has been the progressive deterioration of the council. This has been something more than a relative decrease in the council's power due to vesting new and greater powers in the mayor. It has been a decline in prestige, a loss of popular confidence, a deterioration in the quality of the aldermen elected. The municipality started out with the council form pure and simple, but soon found it inadequate to the needs of a wide-awake municipality, and not only inadequate, but inefficient, and inactive, content and somnolent. With growing wealth and members, surer, quicker, and more responsive action was required. This was secured by vesting, in the main, newly granted powers with the mayor, and by making most newly created officials and many older ones subject to his appointment. But this centralization of administration did not cause the decline in the caliber and prestige of the council. The chief reason for that decline has been the fact that the members of the council were elected in small wards. Aldermen so elected represent small and sectional interests. They are nominated or re-elected, not because they serve the city as a unit, but because they secure advantages for their wards or control their wards in the interests of party. The mayor, elected at large, looks more to the interests of the city as a whole. He thereby secures a respect and confidence that the councilmen know not of. Hence his power and influence increase, as a councilman's would if he were elected at large. So long as wards continue, the council will be inferior, and hence in need of all the checks and restrictions that have been placed upon it. It was, relatively, inferior enough when, in 1885, in the interests of the political party, it was made bicameral. Its relative inferiority was thereby perpetuated. Rarely, indeed, since that time has the city had a free council. As a rule, the council, since then, has been "used" by party, corporation, or others in control, manipulated for free franchises which gave full rights to the corporation and none to the public, manipulated in the interests of party, and gladly and voluntarily so used and manipulated. A bicameral municipal legislature, such as Denver still has, with one body elected by wards, the other nominated in simply larger districts, wherein all responsibility can be escaped, invites control by extra-municipal influences and organizations and makes inevitable anti-public legislation.

A third tendency, markedly pronounced in recent years, the most wholesome and promising of them all, has been the tendency to vest ever greater powers and responsibilities in the electorate. This has been due, in the first place, to the breakdown of the notion that good government was assured when the legislative department was given powers to guard and check the executive and *vice versa*. As a check of any kind, save on progress and efficiency, Denver's council has been a failure. The council failing as a check, the next step was to place responsibility directly where it belongs, upon the electorate. A more efficient agent working for this same end, was the tendency to centralize administrative power in the office of the mayor in order to secure greater efficiency. Now an obedient government is just as necessary as an efficient government. Efficiency in public service, unaccompanied by direct responsibility to the public, is fraught with as many dangers as is diffused, irresponsible government. Therefore, in proportion as power has been centralized, the electorate has been more active and has, of late, reserved ever greater powers to itself through the initiative, referendum, and recall. The highest tribute that can be paid to modern democracy, the greatest surety of its wholesomeness, power, and future strength, is its willingness to vest its officials with plenary power, while reserving to itself full control over them. Such a democracy is not only capable of ruling itself but will, in time, throw off all attempts of public service corporations or other extra-municipal organizations to be the ultimate governing body.

Thus far in Denver's history, but little attention has been given to business efficiency on the part of the city government. As the city has grown larger, certain changes have been made in the interests of better service, such as the establishment of a limited civil service, and the increase in the tenure and remuneration of city officials, but expert service, such as a business corporation would require, has never come to be demanded. Interference in the city's affairs by extra-municipal institutions has emphasized other than business capacity in the selection of city officials. For a few years after the panic of 1893, economy was the single standard of governmental conduct, but even this half-test of business efficiency was abandoned with the renewal of the city's wonted prosperity. Much yet remains to be done if the city's business is to be conducted as orderly and as intelligently as a business of like extent would be conducted if carried on by a private corporation.

A tendency both pronounced and encouraging has been that of granting ever greater autonomy to the city. Much has been said, and timely said, about the evils of special legislation, but as great or greater than the evils of such legislation, are the evils of governing all municipalities of a given population, regardless of the wishes or standards of their inhabitants, by identically the same governmental plan, a plan usually clapped hodge-podge together by legislators who, as a rule, had neither knowledge about nor interest in the scheme of government they were devising. Colorado has divided her cities into three classes according to population, and to each of these classes has granted a slightly variant plan of city government. These plans are no better and no worse than the general laws for the government of municipalities in many other states. They have not been materially changed since they were borrowed from Illinois years ago, save to grant larger powers to the mayor of first-class cities. Every significant change in the industrial and social activities of a community must mean a corresponding change in governmental machinery. When governmental forms are not changed for a half century, especially when that half century has been characterized by marked industrial advance, old forms become obsolete and tend to become unamenable to control. When a city's industrial life is changed not only in quantity or bulk, but in organization or form, new governmental forms must arise to meet the new industrial situation. This opportunity to adapt governmental form to governmental function, Denver gained by choosing special legislation with all its ills. She thus escaped the necessity of working under borrowed, ready-made machinery, which could be overhauled only with the consent of other cities in her class. Her leadership among Colorado cities has been due, in no small measure, to her freedom, unknown to her real competitors, to change her governmental form as she willed, thus keeping it in harmony with public opinion and with her municipal needs. To be sure, this freedom existed only when the party dominant in the city was dominant in the state legislature, but such was the usual situation, save in the last decade of the nineteenth century. For this freedom, she at all times paid heavily by having thrust upon her such measures as best advanced the interests of the dominant state party, such, for instance, as the appointment of her most important boards by the governor But, on the whole, she secured every power she needed and every change in her governmental machinery that a municipality leaping from villagehood to cityhood demands. Denver gained more than she lost by choosing to be subject to special rather than to general legislation.

And finally, having learned the value of local autonomy, the pride of European cities, want of which is tolerated by American cities only, Denver's most progressive citizens secured for the city a constitutional amendment that would reserve to her the advantages formerly secured by special legislation, with none of its disadvantages, the amendment granting the privilege and right of home rule. The city is no longer subservient to a state legislature for legislation as to its own affairs, no longer is it necessary that it should accept such enactments as are pleasing to the majority party of that legislature, no longer does it have to suffer neglect or hostile legislation when the state legislature happens to be in control of a party that does not have a majority in the city. The city no longer has to "swap" votes for the privilege of changing its own governmental form as does every other Colorado city save the two, Black Hawk and Georgetown, still under special legislation, and the three that have adopted home rule, Colorado Springs, Grand Junction, and Pueblo. To Denver, home rule has meant greater power, greater local freedom, and greater possibilities. The structural plan of the city's government has been more stable and less frequently changed under home rule than under special legislation. Yet, needed changes have been made and made in the interests of the public at large. Public opinion, as it ever must be, has been an unwritten part of every charter adopted for the city. Under home rule, especially with the charter amendments of 1910 granting direct legislation, public opinion can register its will surely and tellingly. Denver has builded better than she knew in thus early securing for herself the privileges and advantages of local autonomy and home rule.

Great as the advantages of home rule are, its greatest advantages cannot be attained, the city cannot be wholly free to think, and free to act, until certain fundamental changes have been made. The city's plan of government must be cleared of certain obstacles to efficiency, the city's government must cease to be the tool of party, and some other method must be found for controlling and regulating the city's public utilities.

The bicameral council, the weakest point in the city's government, must, first of all, be abolished. A council of two houses, one of which is elected by wards, the other by merely larger districts, will never secure the efficient legislation of which the city is in need. A small unicameral council, elected at large, has proved elsewhere to be better adapted to the needs and political life of American cities, has proved to be more responsive, and more capable. The bicameral council was adopted for American cities, early in the nineteenth century, because a bicameral legislature was in use in state and nation. But there is a wide difference in the character of legislation required for a state or nation, and that required for a city. The former requires deliberation and the formulating of large policies to be executed by the state's administrators without any immediate possibility of interpretation by the legislature; the latter requires quick action, is more in the nature of administrative regulations than of legislation, and there is no long adjournment during which administrators are free to make their own interpretations. For municipal legislation, a small body elected at large, or at least in but two or three districts, is much better. Its small size gives quick action and fixes responsibility; its election at large makes it responsive to the needs of the city as a whole. There is little opportunity for distinguished service in a large bicameral body. In such a body responsibility is so easily escaped that it becomes the haven of corrupt and anti-public influences.

The city's second governmental need is a shorter ballot. At the municipal election of 1910 there were twenty-two offices to fill and eighty-three candidates for them. No elector can intelligently satisfy himself as to the relative merits of eighty-three candidates for office. This condition will be accentuated when city and county offices are merged. Limiting the number of elective officials would fix attention upon the qualification of candidates, make running for office worth while,[1] and secure better officials.

Many of the city's civic organizations have recently united in urging the adoption of a plan, widely adopted in the country of late, that would secure these advantages and many others. Reference is made to the agitation for commission government.

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[1] As noted in the preceding chapter, both of these changes were adopted by the first charter convention but were overthrown by the second convention becase they tended to minimize party and corporate control and extend the power of the electorate.

The commission plan is fully in keeping with two of the tendencies that have been most prominent in Denver's municipal history: it centralizes power; it reserves full control to the people. It would centralize power in five[1] commissioners instead of in one mayor. By so doing it would tend to place equal emphasis upon all the leading administrative divisions of the city's work, instead of placing all emphasis on the mayor alone. It would give a short ballot and thus fitness, non-partisan fitness, for office would be emphasized. Five commissioners, nominated and elected at large, would give the city both better administration and better legislation than the city is securing under its present defective scheme. Attention would be so definitely fixed upon the candidate's qualifications as a commissioner of public works, or a commissioner of fire and police, a commissioner of health, a commissioner of public safety, a commissioner of parks and highways, or whatsoever other titles may be adopted, that corporate, party, and anti-public influences would avail little. Such a scheme would emphasize business capacity and efficiency, and of such an emphasis Denver, as other American cities, is badly in need. Any highly qualified individual could run for office, and do so without asking the consent of the politicians or the corporations. A politician is a citizen who knows what is going on on election day. With a short, simple ballot, under a scheme that stresses fitness for office, any citizen can be a politician in that sense of the word. The stock objection that the commission plan fuses the legislative and the administrative, is sound neither in practice nor in theory. Either one or the other *must* dominate; there can be no such thing as a unified municipal policy save by such domination. Under the present plan the administrative dominates; so will it under the commission plan. The theory of creating one department to check another has found no justification in practice. In Denver's own history the real check has never come from the formal institutions, such as the council, but from the informal institutions, the chief of which has been and is the Chamber of Commerce. The council and the mayor are chosen at the same time, from the same group interests and, once elected, amalgamate into a governing body; the Chamber is composed of a different personnel, its membership comes from all classes, are not all chosen under the same impulse, Hence the Chamber is a much better check than an upper and a lower house, or an attempt at entire separation of legislative and administrative departments. As a formal institution, direct legislation and the recall are more direct and specific checks especially on matters social and moral. These for occasional action, aided by the Chamber, a body always watchful of the city's industrial interests, will better safeguard the city's government than will countless cumbersome checks. A thoroughgoing revision that will arouse public interest and center emphasis upon the need and value of a municipal government that is at once both responsive to the public good and efficient as a business body, such as commission government will be, will be much better than a revision merely making the amendments suggested above.[1]

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[1] That is, of course, if five is the number of commissioners decided upon.

But not all lies in the plan of government. It is not the present plan that has been the most deleterious phase of Denver's actual government, but the extra-municipal purposes to which that plan has been put. The defects in the plan, to be sure, have made it easy to use the government for anti-public ends but these defects have not been the cause of the desire so to use the city's governmental machinery. The maluse of this machinery has come from the political party and the public utilities.

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[1] For a recent and thorough account of the machinery and accomplishments of Commission Government, see the November (1911) number of "The Annals of the American Academy of Social and Political Science." This volume is on Commission Government and was planned and edited by the author.

The political condition in Colorado and Denver is not nearly so bad now as it has been in the past, nor is it worse, nor has it ever been worse than the situation in some other states in the Union, such as New York and, notably, Pennsylvania. But the city's offices are still looked upon as the legitimate spoils of political party and official position in Denver is still a leading avenue to political preferment. Not questions of the city's good, but questions of party expediency determine what candidates are selected for city positions, whether elective or appointive. It is through party machinery that the public service corporations are exerting their control over city officials and it is in the agents of franchise-holding and franchise-seeking companies that the professional politicians have found, and are finding, their principal allies and sources of supply. The best interests of the city demand that local not party, municipal not corporate interests should be the determining influences in the choice of its officials. It is not meant that there must be, under all circumstances, local parties, wholly independent of the major political parties, though so long as the major parties have like interests and these interests seem opposed to the city's best interests, an independent party, such as the Citizens' Party, is the only way of meeting the situation. In the municipal election of 1910, the Citizens' Party was the only avenue for securing a ballot not nominated by the very concerns whose control it was sought to curb. So long as this condition continues, distinct local parties will be absolutely necessary. They may not be unwise even after such a condition ceases to exist. When there exist two political parties that honestly represent different social groups and interests, then virile Voters' Leagues, to watch nominations and emphasize local issues, may suffice. Without either the local party or such Voters' Leagues, party domination will continue. Just as bad money drives out good, so, without watchful control, the lower order of political leader drives out the higher, and city positions become but the reward for party subserviency.

More pernicious of late than the domination of party has been the influence of the city's public utilities. During the earlier periods, the efforts of these corporations were directed toward securing franchise grants that would mean great economic gain to them if the city grew rapidly in population, and no economic loss if it did not. The city, then a village, was anxious to secure such services, and granted franchises, often for long periods or in perpetuity, without reservations as to public control. The city tried out the principle of no regulation of public utilities and found the policy disastrous. In the later "eighties," regulation through competition was given a thorough trial. Numerous competitive public utility companies were formed. Lower rates and better service resulted. But their tenure was brief and in their place came monopoly, higher rates, and poorer service. The council, through untoward influences, did not make use of its opportunities to secure satisfactory franchises for the future. The city having failed to control, and competition failing as a regulator, as it always will fail in public service corporations, because of the great savings in duplication under a monopoly, the corporations became the actual policy-creating influence in the city. Corporate control was then made an issue in municipal campaigns and for four years officials were elected, that were pledged to further the interests of the city as a whole, rather than primarily the interests of its public utilities. Then interest lagged, control of corporations by campaign proved ephemeral, and the utilities again obtained their every desire through a subservient city government. Early in the twentieth century, another attempt to achieve independence from corporate manipulation secured Article Twenty of the constitution, with its provision that franchises should be subject to the referendum. The referendum proved to be the best agent of control yet adopted; it educated the public as to the value and meaning of franchise grants; it secured better social and financial remuneration for the city's franchises; it made the public service corporations somewhat appreciative of the fact that they were public institutions, enfranchised to advance the public weal as well as their own. But the unaided referendum has failed to secure the best of franchises and it has not divorced the city government from its public utilities. The franchises were drawn by the companies' specialists with the thought of securing, by popular concessions, just enough votes to adopt the franchise. The electorate had no experts present to barter for advantages for the people. Ill-balanced franshises resulted. Moreover, there were still many favors and advantageous interpretations that could be conferred by a friendly city government. The corporations, therefore, continued, with the aid of party machinery, to keep the leading city officials friendly to their needs and wishes.

Now just so long as such control exists, the city's government will be inefficient; will be directed toward other ends than that for which it was primarily created. In the interests of governmental efficiency, some method of corporate control must be employed other than any of the methods heretofore tried, or that are now in vogue in the city. Competition is no regulator because it does not persist in such services. The referendum, unaccompanied by the aid of a permanent commission, is spasmodic and does not secure means for the frequently needed interpretations of franchise clauses and grants. Each public utility company is now its own interpreter and administrator. A municipal commission, such as was provided for by the first charter convention, and rendered impotent by the second, would, if unaccompanied by state aid, be inadequate for the same reasons that state regulation of railroads was inadequate until coupled with national regulation; the corporate relations and activities of the city's public utilities extend far beyond the city's limits, as the corporate relations of the railroads extend far beyond the limits of the state. The relationships of the city's public service corporations are state wide, and therefore their state-wide activities can be adequately controlled and regulated only by the state.

Regulation of some kind there must be. The only alternative to thorough regulation is municipal ownership. The city may well own its water supply in the interests of health and civic betterment, but it is certainly not ready, financially, to undertake the ownership of all its public utilities. There is at hand a method of control that other states under like circumstances have tried and found to be efficient, and that is, regulation by a state public utility commission.[1] This method can be so modified as to meet the needs of both Denver and the state.

The law creating this commission, to be of value, would first of all have to revise the present franchise and corporation statutes. Under the present law there is no proper control of the privileges of incorporation, to which fact many of the city's ills are and have been due. The law would also have to include, to get the best results, a thorough-going revision of the existing railway commission law, so as to give the commission real powers over intra-state railway traffic; without such a revision, there would be no real regulation of many of the interests in which Denver's public utilities, especially the Tramway, are directly concerned. The law should also provide for proper supervision of the power concerns and the irrigation corporations of the state, with all of which Denver's public utilities are closely allied. And finally, to secure results, the commission would have to be vested with virile powers over the physical valuation, the issuance of stock, the capitalization and dividends of all public service and industrial corporations both in Denver and in the state.

Such a commission would in no sense be comparable with the former state appointed fire and police boards and the state appointed board of public works. These had to do with the city's own police, its own protection from fire, the improvements in its own streets and parks. These interests were bounded by the city's limits and there was nothing inherent in them that the city could not control; without control over them, local government was but a name. Such is not now the situation with the city's public utilities. Their ramifications, corporate and industrial, are state wide; the city government is controlled by them; it cannot be efficient so long as it is so controlled. The state commission need not definitely interfere in the city's own affairs.

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[1] See "The Regulation of Municipal Utilities," edited by the author. Published by D. Appleton & Co.

This commission would, first of all, secure the detailed information that is necessary for wise and thorough regulation of Denver's own public utilities. Such information, Denver, unaided, can not secure. Then a small commission of Denver citizens, locally appointed or elected, could, with this information for their guidance, be advantageously created. This commission should be given full power to initiate and pass upon franchises before their submission to the electorate, full power to regulate the rates for all public services within Denver limits, full power to make requirements as to extensions, and set standards for the service of all the city's public service corporations. The information collected by the state board would also be of inestimable value in keeping the public enlightened as to the justness and sufficiency of the actions of both the state and city commissions.

This plan conserves the essentials and advantages of home rule. Denver's public utility commission could be locally selected. The state appointed board could regulate the affairs of such concerns as are not local in their import, and could secure much information that is necessary to sane activity on the part of Denver's commission.

Such a method of control would be better for the public service corporations themselves. It would protect their actual investments. Encroachments upon investments by an outraged public opinion, which ignores watered stock because the community's interests have been wholly ignored, will no longer be necessary. The public will not forever pay rates upon a larger amount of such stock than is, to the public mind, warranted. Not only would the actual investments of such corporations be carefully protected, as actual investments should be, but the corporations would no longer be under the necessity of expending large funds toward the support of party, and the "education" of the public. The public, thoroughly informed, would be in sympathy with the undertakings of such corporations, and friendly relations with the public is a quasi-public corporation's best asset. Such control would make possible a settled policy. Where this plan has been given a thoroughgoing trial in other states, the corporations have found it a vast improvement over an erratic, spasmodic control. The notion that such concerns should be unregulated has gone forever. Efficient, thoroughgoing control is inevitable. It may as well be of a kind that protects both the public and the corporations.

The advantages of such a scheme of control to the public and to the city as a whole are patent and unquestionable. Fairer rates, better service, remunerations that take the form of extensions and other social advantages as well as the form of financial return to the city, would be assured. And, most important of all, a long and necessary step would be taken toward divorcing the city government from the untoward influences of the city's public utilities. Without such divorce efficient city government, with the electorate in actual control, is unthinkable.

Denver's industrial relations with the state have ever been most intimate and reciprocal. Other of our large municipalities owe their industrial opportunities in part to the sea or to their inherent manufacturing possibilities, but Denver owes hers solely to the region round about. She is the state's emporium; the state is her source of wealth. This industrial intimacy has led, and will continue to lead, to equally close and reciprocal relations between the government of the state and the government of the city. Where there is industrial unity, there is corporate unity. Where these exist, there must be governmental unity. The unifying agency has been, and probably will and should continue to be, the political party. But this is no reason why political and corporate interests only should be given first consideration. Denver's great governmental problem is to continue cordial industrial relations with the state at large, while preserving for herself sufficient autonomy to keep her government from being the tool of party and corporate agencies.

# APPENDIX.

## THE HOME RULE AMENDMENT.

### ARTICLE XX. OF THE CONSTITUTION OF COLORADO.

### CITY AND COUNTY OF DENVER. INCORPORATION.

SEC. 1. The municipal corporation known as the city of Denver, and all municipal corporations and that part of the quasi-municipal corporation known as the county of Arapahoe, in the state of Colorado, included within the exterior boundaries of the said city of Denver as the same shall be bounded when this amendment takes effect, are hereby consolidated and are hereby declared to be a single body politic and corporate, by the name of the "City and County of Denver." By that name said corporation shall have perpetual succession, and shall own, possess and hold all property, real and personal, theretofore owned, possessed or held by the said city of Denver and by such included municipal corporations, and also all property, real and personal, theretofore owned, possessed or held by the said county of Arapahoe, and shall assume, manage and dispose of all trusts in any way connected therewith; shall succeed to all the rights and liabilities, and shall acquire all benefits, and shall assume and pay all bonds, obligations and indebtedness of said city of Denver and of said included municipal corporations and of the county of Arapahoe; by that name may sue and defend, plead and be impleaded, in all courts and places, and in all matters and proceedings; may have and use a common seal and alter the same at pleasure; may purchase, receive, hold and enjoy, or sell and dispose of, real and personal property; may receive bequests, gifts and donations of all kinds of property, in fee simple, or in trust for public, charitable or other purposes; and do all things and acts necessary to carry out the purposes of such gifts, bequests and donations, with power to manage, sell, lease or otherwise dispose of the same in accordance with the terms of the gift, bequest or trust; shall have the power, within or without its territorial limits, to construct, condemn and purchase, purchase, acquire, lease, add to, maintain, conduct and operate, water works, light plants, power plants, transportation systems, heating plants, and any other public utilities or works or ways local in use and extent, in whole or in part, and everything required therefor, for the use of said city and county and the inhabitants thereof, and any such systems, plants or works or ways, or any contracts in relation or connection with either, that may exist and which said city and county may desire to purchase, in whole or in part, the same or any part thereof may be purchased by said city and county which may enforce such purchase by proceedings at law as in taking land for public use by right of eminent domain, and shall have the power to issue bonds upon the vote of the taxpaying electors, at any special or general election, in any amount necessary to carry out any of said powers or purposes, as may by the charter be provided.

The general annexation and consolidation statutes of the state shall apply to the city and county of Denver to the same extent and in the same manner that they would apply to the city of Denver if it were not merged, as in this amendment provided, into the city and county of Denver. Any contiguous town, city or territory hereafter annexed to or consolidated with the city and county of Denver, under any of the laws of this state, in whatsoever county the same may be at the time, shall be detached per se from such other county and become a municipal and territorial part of the city and county of Denver, together with all property thereunto belonging.

The city and county of Denver shall alone always constitute one judicial district of the state.

### OFFICERS.

SEC. 2. The officers of the city and county of Denver shall be such as by appointment or election may be provided for by the charter; and the jurisdiction, term of office, duties and qualifications of all such officers shall be such as in the charter may be provided; but every charter shall designate the officers who shall, respectively, perform the acts and duties required of county officers to be done by the constitution or by the general law, as far as applicable. If any officer of said city and county of Denver shall receive any compensation whatever, he or she shall receive the same as a stated salary, the amount of which shall be fixed by the charter, and paid out of the treasury of the city and county of Denver in equal monthly payments.

### TRANSFER OF GOVERNMENT.

SEC. 3. Immediately upon the canvass of the vote showing the adoption of this amendment, it shall be the duty of the governor of the state to issue his proclamation accordingly, and thereupon the city of Denver, and all municipal corporations and that part of the county of Arapahoe within the boundaries of said city, shall merge into the city and county of Denver, and the terms of office of all officers of the city of Denver and of all included municipalities and of the county of Arapahoe shall terminate; except, that the then mayor, auditor, engineer, council (which shall perform the duties of a board of county commissioners), police magistrate, chief of police and boards, of the city of Denver shall become, respectively, said officers of the city and county of Denver, and said engineer shall be ex officio surveyor and said chief of police shall be ex officio sheriff of the city and county of Denver; and the then clerk and ex officio recorder, treasurer, assessor and coroner of the county of Arapahoe, and the justices of the peace and constables holding office within the city of Denver, shall become, respectively, said officers of the city and county of Denver, and the district attorney shall also be ex officio attorney of the city and county of Denver. The foregoing officers shall hold the said offices as above specified only until their successors are duly elected and qualified as herein provided for; except that the then district judge, county judge and district attorney shall serve their full terms, respectively, for which elected. The police and firemen of the city of Denver, except the chief of police as such, shall continue severally as the police and firemen of the city and county of Denver until they are severally discharged under such civil service regulations as shall be provided by the charter; and every charter shall provide that the department of fire and police and the department of public utilities and works shall be under such civil service regulations as in said charter shall be provided.

## FIRST CHARTER.

SEC. 4. The charter and ordinances of the city of Denver, as the same shall exist when this amendment takes effect shall, for the time being only, and as far as applicable, be the charter and ordinances of the city and county of Denver; but the people of the city and county of Denver are hereby vested with, and they shall always have the exclusive power in the making, altering, revising or amending their charter, and, within ten days after the proclamation of the governor announcing the adoption of this amendment, the council of the city and county of Denver shall, by ordinance, call a special election, to be conducted as provided by law, of the qualified electors in said city and county of Denver, for the election of twenty-one tax-payers, who shall have been qualified electors within the limits thereof for at least five years, who shall constitute a charter convention, to frame a charter for said city and county in harmony with this amendment. Immediately upon completion, the charter so framed, with a prefatory synopsis, shall be signed by the officers and members of the convention and delivered to the clerk of said city and county, who shall publish the same in full, with his official certification, in the official newspaper of said city and county, three times, and a week apart, the first publication being with the call for a special election, at which the qualified electors of said city and county shall by vote express their approval or rejection of the said charter. If the said charter shall be approved by a majority of those voting thereon, then two copies thereof (together with the vote for and against) duly certified by the said clerk shall, within ten days after such vote is taken, be filed with the secretary of state, and shall thereupon become and be the charter of the city and county of Denver. But if the said charter be rejected, then, within thirty days thereafter, twenty-one members of a new charter convention sh ll be elected at a special election, to be called as above in said city and county, and they shall proceed as above to frame a charter, which shall in like manner and to the like end be published and submitted to a vote of said voters for their approval or rejection. If again rejected, the procedure herein designated shall be repeated (each special election for members of a new charter convention being within thirty days after each rejection) until a charter is finally approved by a vote for and against) to the secretary of state as aforesaid, whereupon it shall become the charter of the said city and county of Denver and shall become the organic law thereof, and supersede any existing charters and amendments thereof. The members of each of said charter conventions shall be elected at large; and they shall complete their labors withing sixty days after their respective election.

Every ordinance for a special election of charter convention members shall fix the time and place where the convention shall be held, and shall specify the compensation, if any, to be paid to the officers and members thereof, allowing no compensation in case of non-attendance or tardy-attendance and shall fix the time when the vote shall be taken on the proposed charter, to be not less than thirty days nor more than sixty days after its delivery to the clerk. The charter shall make proper provision for continuing, amending or repealing the ordinances of the city and county of Denver.

All expenses of charter conventions shall be paid out of the treasury upon the order of the president and secretary thereof. The expenses of elections for charter conventions and of charter votes shall be paid out of the treasury, upon the order of the council.

No franchise, relating to any street, alley or public place of the said city and county shall be granted except upon the vote of the qualified taxpaying electors, and the question of its being granted shall be submitted to such vote upon deposit with the treasurer of the expense (to be determined by said treasurer) of such submission by the applicant for said franchise. The council shall have power to fix the rate of taxation on property each year for city and county purposes.

## NEW CHARTERS, AMENDMENTS OF MEASURES.

SEC. 5. The citizens of the city and county of Denver shall have the exclusive power to amend their charter or to adopt a new charter, or to adopt any measure as herein provided:

It shall be competent for qualified electors, in number not less than five per cent. of the next preceding gubernatorial vote in said city and county, to petition the council for any measure, or charter amendment, or for a charter convention. The council shall submit the same to a vote of the qualified electors at the next general election, not held within thirty days after such petition is filed; whenever such petition is signed by qualified electors in number not less than ten per cent. of the next preceding gubernatorial vote in said city and county, with a request for a special election, the council shall submit it at a special election, to be held not less than thirty nor more than sixty days from the date of filing the petition; Provided, That any question so submitted at a special election shall not again be submitted at a special election within two years thereafter. In submitting any such charter, charter amendment or measure, any alternative article or proposition may be presented for the choice of the voters, and may be voted on separately without prejudice to others. Whenever the question of a charter convention is carried by a majority of those voting thereon, a charter convention shall be called through a special election ordinance, as provided in section four (4) hereof, and the same shall be constituted and held and the proposed charter submitted to a vote of the qualified electors, approved or rejected, and all expenses paid, as in said section provided.

The clerk of the city and county shall publish, with his official certification, for three times, a week apart, in the official newspaper, the first publication to be with his call for the election, general or special, the full text of any charter, charter amendment, measure or proposal for a charter convention, or alternative article or proposition, which is to be submitted to the voters. Within ten days following the vote the said clerk shall publish once in said newspaper the full text of any charter, charter amendment, measure or proposal for a charter convention, or alternative article or proposition, which shall have been approved by a majority of those voting thereon, and he shall file with the secretary of state two copies thereof (with the vote for and against) officially certified by him, and the same shall go into effect from the date of such filing. He shall also certify to the secretary of state, with the vote for and against, two copies of every defeated alternative article or proposition, charter, charter amendment, measure or proposal for a charter convention. Each charter shall also provide for a reference, under proper petition therefor, of measures passed by the council to a vote of the qualified electors, and for the initiative by the qualified electors of such ordinances as they may by petition request.

The signatures to petitions in this amendment mentioned need not all be on one paper. Nothing herein or elsewhere shall prevent the council, if it sees fit, from adopting automatic vote registers for use at elections and references.

No charter, charter amendment, or measure adopted or defeated under the provisions of this amendment shall be amended, repealed or revived, except by petition and electoral vote. And no such charter, charter amendment or measure shall diminish the tax rate for state purposes fixed by act of the general assembly, or interfere in any wise with the collection of state taxes.

### CITIES OF THE FIRST AND SECOND CLASS.

SEC. 6. Cities of the first and second class in this state are hereby empowered to propose for submission to a vote of the qualified electors, proposals for charter conventions and to hold the same, and to amend any such charter, with the same force, and in the same manner and have the same power, as near as may be, as set out in sections four (4) and five (5) hereof, with full power as to real and personal property and public utilities, works or ways, as set out in section one (1) of this amendment.

### SCHOOL DISTRICTS CONSOLIDATED.

SEC. 7. The city and county of Denver shall alone always constitute one school district, to be known as District No. 1, but its conduct, affairs and business shall be in the hands of a board of education, consisting of such numbers, elected in such manner as the general school laws of the state shall provide, and until the first election under said laws of a full board of education, which shall be had at the first election held after the adoption of this amendment, all the directors of school district No. 1 and the respective presidents of the school boards of school districts Nos. 2, 7, 17, and 21, at the time this amendment takes effect, shall act as such board of education, and all districts or special charters now existing are hereby abolished.

The said board of education shall perform all the acts and duties required to be performed for said district by the general laws of the state. Except as inconsistent with this amendment, the general school laws of the state shall, unless the context evinces a contrary intent, be held to extend and apply to the said "District No. 1."

Upon the annexation of any contiguous municipality which shall include a school district or districts, or any part of a district, said school district or districts or part shall be merged in said "District

No. 1," which shall then own all the property thereof, real and personal, located within the boundaries of such annexed municipality, and shall assume and pay all the bonds, obligations and indebtedness of each of the said included school districts, and a proper proportion of those of partially included districts.

Provided, however, That the indebtedness, both principal and interest, which any school district may be under at the time when it becomes a part, by this amendment or by annexation, of said "District No. 1," shall be paid by said school district so owing the same by a special tax, to be fixed and certified by the board of education to the council, which shall levy the same upon the property within the boundaries of such district, respectively, as the same existed at the time such district becomes a part of said "District No. 1," and in case of partially included districts, such tax shall be equitably apportioned upon the several parts thereof.

SEC. 8. Anything in the constitution of this state in conflict or inconsistent with the provisions of this amendment is hereby declared to be inapplicable to the matters and things by this amendment covered and provided for.

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